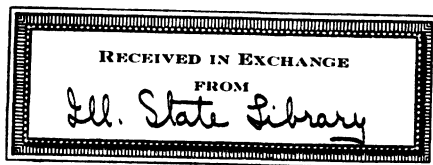
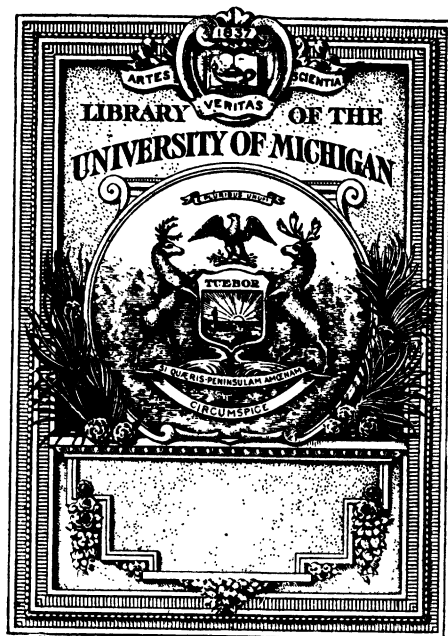


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Proceedings

of the

Illinois.

Constitutional Convention, 1920-

of the

STATE OF ILLINOIS

Convened January 6, 1920



VOLUME III

Compiled by
Committee to edit the proceedings of the Convention

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OFFICERS OF THE CONVENTION.

President

CHARLES E. WOODWARD
Ottawa

Secretary

B. H. McCANN
Bloomington

TUESDAY, SEPTEMBER 21, 1920.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend Abram G. Bergen of the First Presbyterian church, Springfield.

THE PRESIDENT. The Journal of July 6, 1920, was placed on the desks of the delegates at the last session of the Convention, and it is now subject to correction. There being no corrections proposed, the Journal of July 6th, 1920, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of reports of standing committees, special orders of the day, and reports from the Committee on Rules and Procedure.

Mr. MICHAL (Cook). Mr. Chairman, I have here a resolution which I desire to submit.

THE PRESIDENT. We have not yet reached the order of resolutions, Mr. Michal.

THE SECRETARY. Your Committee on Rules and Procedure respectfully reports the following resolution and recommends its adoption:

RESOLUTION No. 29.

Resolved, That when this Convention adjourns today, it adjourns to meet at ten o'clock a. m. on Monday, November 8th, 1920, and that when the Convention meets at that time it shall sit six days a week, and the President be instructed to enforce the attendance of the delegates.

THE PRESIDENT. The question is upon the adoption of the report of the Committee on Rules and Procedure. Are there any remarks? If not, as many as are of the opinion that the reports should be adopted will say aye. Any that have a contrary opinion say no. The ayes have it and the report is adopted.

Mr. MICHAL (Cook). Mr. President—

THE PRESIDENT. The delegate from Cook, Mr. Michal.

Mr. MICHAL (Cook). I offered the following resolution:

WHEREAS, It is very generally complained of and charged in Chicago and other of the larger centers of the State by the patrons of the State banks that such institutions are systematically violating the laws of this State, the rate of interest charges, by demanding not only the maximum interest rates allowed by law, but under the guise and pretext of charging commissions or bonuses for securing or granting loans, are exacting in many instances from ten to twenty-five per cent of the amounts loaned.

WHEREAS, This practice tends to throw unnecessary burdens on business and agriculture, resulting in preventing building operations, the movement and storing of crops, the employment of labor in industrial lines and in keeping up the present high cost of all commodities required by our people. If these reports are true, this Convention should know the facts so as to more clearly suggest remedies for the correlation of this evil; therefore, be it

Resolved, That the President be and he is hereby directed to appoint a committee of seven members of this body to fully investigate the subject of bank loans in this State and report to this body its findings, conclusions and recommendations. Said committee to be empowered to compel the attendance of witnesses by subpoena or otherwise, the production by them

of books and papers, and to administer oaths and to do all things so as to become fully advised in the premises.

I move the adoption of the resolution.

THE PRESIDENT. You have heard the reading of the resolution. The delegate from Cook moves the adoption of the resolution. Are there any remarks?

Mr. HAMILL (Cook). I move that the resolution be laid upon the table.

THE PRESIDENT. The delegate from Cook, Mr. Michal, moves the resolution be adopted. The question is upon the motion of the delegate from Cook, Mr. Hamill, to lay the resolution on the table. As many as are of the opinion that the resolution should prevail, say aye. Those opposed, say no. The ayes have it and the motion prevails and the resolution is laid upon the table.

Any further resolutions?

Mr. MICHAL (Cook). I desire to say that I shall demand a roll call on that. I think that the interests of this country at this date demand this investigation and they ought to have it, and the fault, if any, ought to be remedied, and this is the time.

THE PRESIDENT. Any further resolutions or motions?

The report of standing committees.

THE SECRETARY. Mr. O'Brien from the Committee on Miscellaneous Subjects reports as follows:

"Your Committee on Miscellaneous Subjects, to which was referred proposal No. 224, begs leave to report the same back with recommendation that it be rejected."

THE PRESIDENT. Under the rules the report of the committee will be laid upon the table and will be printed.

THE SECRETARY. Proposal No. 382, a proposal relative to amendments to the Federal Constitution.

THE PRESIDENT. The same order as to that report.

Any further reports of standing committees?

Unfinished business?

THE SECRETARY. None.

THE PRESIDENT. What is the further pleasure of the Convention?

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). I would like to present this suggestion, at least for discussion of the delegates. Isn't it possible that we might have printed in pamphlet form and delivered to each member one copy of all reference proposals now pending before the Convention, which we had at first reading and any, if there be any, which have passed second reading, together with the reports which are upon the tables from the standing committees, so that we might somewhat more intelligently discuss the real substance of some of these vital questions before we meet again.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). May I suggest to the delegate from Champaign and to the other members, if I understand his suggestion it is that all of the proposals which have gone through first reading are in print and are known as reference numbers; they are the ones which have been referred to the Committee on Phraseology and Style, and I think that one of them comes to the desk of every delegate in the Convention, so that there will be no difficulty in complying with that suggestion. If anybody wants them there are doubtless additional copies to be had in the Secretary's hands.

Mr. GREEN (Champaign). My suggestion was that while that is perfectly true, they are not in our possession now, and we have loaned them about, and there is some difficulty in keeping them separate, but if they might be printed at this time it would certainly be very helpful.

I now move you that the Secretary be instructed to print in pamphlet form this collection of the proposals as they have passed the first reading, and as they have passed second reading.

Mr. MICHAL (Cook). Mr. Chairman, I move that motion be laid on the table.

THE PRESIDENT. The delegate from Champaign moves that the Secretary be directed to prepare in pamphlet form and distribute among the delegates the text of the proposals which have been, or which have passed first reading, and the number of the Committee on Phraseology and Style on the reports which have been made by it, and the delegate from Cook, Mr. Michal, moves to lay the motion upon the table. The question is on the motion to lay upon the table. The noes have it and the motion is lost. The question is upon the motion of the delegate from Champaign. Any further remarks? As many as are of the opinion that the motion should prevail say aye. As many as are of the contrary opinion say no. The ayes have it and the motion prevails.

Any further business to come before the Convention?

Mr. GREEN (Champaign). That is all I have.

THE SECRETARY. That is all.

THE PRESIDENT. That is all in the Secretary's hands. If there is nothing more, a motion to adjourn will be in order.

Mr. GREEN (Champaign). Mr. President, I move you that the Convention do now adjourn.

THE PRESIDENT. The delegate from Champaign moves that the Convention do now adjourn. As many as are of the opinion that the motion should prevail, say aye. As many as are of the contrary opinion say no. The ayes have it and the Convention stands adjourned until November 8, 1920, at 10 A. M.

In accordance with resolution heretofore adopted, the Convention stood adjourned until November 8, 1920, at 10 o'clock A. M.

MONDAY, NOVEMBER 8, 1920.**10:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. M. P. Boynton, of the Woodlawn Baptist Church, of Chicago.

Whereupon the Convention proceeded upon the order of special orders, reports of standing committees, reports of select committees, introduction, first and second reading of proposals, motions and resolutions, unfinished business, and special orders of the day.

THE PRESIDENT. The Journal of Wednesday, July 7th, 1920, was placed on the desk of the delegates at the last session of the Convention and is now subject to correction. There being no corrections proposed, the Journal of Wednesday, July 7th, 1920, will stand approved, and it is so ordered.

Under general order of the day the Convention would in the natural order resolve itself into a Committee of the Whole for the purpose of hearing matters on the general orders, and the president has been requested by several of the committees to suggest that it would be wise and advisable if the day were spent by several of those committees in perfecting their reports, and that can be done, so the Chair is advised, today. The Chair would therefore request that the several committees whose reports have partially been made devote the day to the preparation of their reports, so that the reports may be ready for consideration tomorrow morning. The Chair further requests immediately after the adjournment that the Committee on Rules meet in the President's office for consideration of the important business before the Convention.

Mr. PADDOCK (Sangamon). I offer the following resolution and move its adoption.

RESOLUTION No. 31.

WHEREAS, The members of the Constitutional Convention have learned with the deepest regret of the death of the Hon. Clinton L. Conkling, at Springfield, Illinois, on the twelfth day of October, 1920; and

WHEREAS, Mr. Conkling at the time of his death was an honored and respected member of this Convention from the forty-fifth senatorial district; and

WHEREAS, We desire to note that Mr. Conkling was born in Sangamon county in 1843, and that he has been a resident thereof all of his life; that at the time of his death he was the oldest and leading member of the bar of that county; and that he took an active interest in all political, civic and religious matters affecting the people among whom he lived; now, therefore be it

Resolved, That we express our esteem and respect for the honored dead, and our sympathy for those to whom the sorrow of his death is most keen; and, be it further

Resolved, That we express our deep regret at the loss of one of our most useful and respected associates, and at the loss to the State of Illinois and his community of an honored and respected citizen, and be it further

Resolved, That this preamble and resolution be spread upon the records of this Convention; that a suitably engrossed copy thereof be sent to the members of the bereaved family; and that as a further mark of respect to his memory the Convention do now adjourn.

(Adopted.)

Whereupon an adjournment was taken to Tuesday, November 9th, A. D. 1920, at ten o'clock A. M.

TUESDAY, NOVEMBER 9, 1920.

10:00 o'Clock A. M.

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. M. P. Boynton, Woodlawn Baptist Church, Chicago.

THE PRESIDENT. The Journal of Tuesday, September 21, 1920, has been placed on the delegates' desk and is now subject to correction. There being no corrections proposed, the Journal of September 21, 1920, will stand approved and it is so ordered.

The Committee on Rules submits the following report:

COMMITTEE REPORT.

Your Committee on Rules and Procedure respectfully suggests the adoption of the following schedule and order for consideration of committee reports in Committee of the Whole:

Beginning Tuesday morning, November 9th, committee reports in the following order:

- 1st: Revenue, Taxation and Finance.
- 2nd: Initiative, Referendum and Recall.
- 3rd: Judicial Department.
- 4th: Chicago and Cook County.

Upon agreement between the Delegates having under consideration the subject of legislative apportionment, the foregoing schedule and calendar will yield place to conform with their report, for any specific time agreed upon by them.

Other committee reports and propositions remaining undisposed of will be put upon the calendar by subsequent order or when reached at the conclusion of the foregoing schedule.

(Report adopted.)

Under the report just adopted the Convention will now resolve itself into a Committee of the Whole for the purpose of considering the reports on judiciary, taxation and finance. The Chair designates Delegate Gale, of Knox, to act as chairman of the Committee of the Whole.

(Whereupon Delegate Gale took the chair of the Committee of the Whole.)

CHAIRMAN GALE. Gentlemen of the committee, the committee will be in order. The reports of the Revenue Committee, three reports, have been furnished to the delegates. Upon the desks of the delegates you will find a mimeographed copy of section 1, which presents a few changes from the printed copy of Proposal 378, presenting in a little clearer form the views of the majority of the committee. There are two minority reports, one signed by Senator Kerrick, Delegates Brenholt and Sneed and Warren, and a minority report signed by Delegate Shuey.

The majority report is signed by the remainder of the delegates. You will note that there is no conflict, so far as the report shows on the provisions of the revenue article except as to section 1. There will, however, be an amendment or two offered by members of the committee on section 3. It has been made the duty of the chairman by the majority of the committee to present to you the revenue report, to make an argument presenting their views, so far as he has the ability to do it, the preliminary views of the majority of the committee as to section 1.

The matter of the revenue report, I suppose we can all agree, is, if not the most important, one of the most important matters to come before this

Convention. The question of how we shall handle the matter to expedite it and get the clearest view before the Convention is, of course, up to you. I want to suggest to you, however, that it seems to me, as chairman of the committee, after I have presented to you section 1, that the committee should then ask Senator Kerrick to present the minority report on this section, and Delegate Shuey to present his minority report, so before the rest of you get into the general discussion of this revenue article you might have the views as to the conflicting sections 1, and if the committee does not choose to alter that plan, that will be the plan which we will adopt, but of course if you prefer some other way of doing you will adopt such other way.

In the order of presentation I would prefer to present section 1 from the floor of the Convention, and I will ask Delegate Whitman to take the chair.

(Delegate Whitman presiding over the Committee of the Whole.)

Mr. KERRICK (McLean). I desire to move that the minority report signed by Delegates Kerrick, Brenholt, Sneed and Warren be substituted for the majority report, and in support of that motion I would like to be heard briefly.

CHAIRMAN WHITMAN. I think, Senator, before that motion would be in order we should have the reports read.

Mr. KERRICK (McLean). I was not aware that that was necessary, but, of course, I will yield.

CHAIRMAN WHITMAN. Under our rules it is necessary, when we have a committee report, to have it read.

(Reports read.)

Mr. GALE (Knox). I wish to say that the majority of the committee desire to offer the mimeograph of section 1 which the clerk has in lieu of section 1 of Proposal 378.

CHAIRMAN WHITMAN. That will be so ordered. The clerk will read section 1 as offered.

(Read.)

Mr. HULL (Cook). Mr. Chairman and gentlemen of the Convention, I will ask your consent to present an amendment to the majority report providing for the addition of three sections. These sections govern the question of financing public utilities for municipal ownership and operation. I am asking now that I may have leave to have these introduced and have them printed, not to be considered for this moment, but in a later consideration in the proceedings of the committee but ask they be introduced now so that they may be printed for the consideration of the committee.

CHAIRMAN WHITMAN. Any objection on the part of the committee?

Mr. KERRICK (McLean). No objection at all on my part or Senator Gale's.

CHAIRMAN WHITMAN. By general consent they may be received.

Mr. GALE (Knox). Mr. Chairman, at the request of Senator Kerrick I will yield to him to present his minority report, before I present the majority report.

Mr. KERRICK (McLean). Senator Gale did not state that it was my desire that he shall present the case for the majority immediately after I close my remarks. However, debate will then proceed on my motion to substitute this report for the majority report of the committee.

CHAIRMAN WHITMAN. The question is on the motion to substitute the minority report for the majority report of the committee.

Mr. KERRICK (McLean). In order to avoid, as far as I might, any confusion, in consideration of the important matter under discussion now, I have departed from my usual custom of speaking offhand and I have reduced my remarks for the most part to writing. I will ask the pardon of the committee in advance if I shall seem to have extended my remarks unduly—my only excuse for that is that the importance of the matter was so great and I did the best I could to confine myself to what appeared to me to be reasonable time for the discussion.

Mr. Chairman and members of the Committee of the Whole: The minority report which it is sought by the pending motion to substitute for the majority report of the Committee on Revenue, Taxation and Finance, relates only to section 1 of the proposed revenue article. The signers of this minority report are in substantial accord with the signers of the majority report as to all other sections of the article as presented in the majority report.

Section 1 as reported by the minority differs from section 1 as reported by the majority in the respects which I shall state in the order in which the differences severally occur.

The first difference is as follows: Section 1, as reported by the majority, omits the word "all" occurring before the word "property" in the second line of the minority section 1, and in the third line of the majority section 1, and also beginning with the word "but" in the sixth line of the majority section 1 provides as follows: "But the General Assembly shall have power to tax money, notes, stocks, securities, royalties, bonds, credits, participations in profits or property, and evidence of indebtedness or any one or more of such classes of property at such rates and in such manner uniform as to each class as may be provided by general law," thus differing from the minority section by providing that the classes of property specified may be taxed at a different rate and in a different manner than uniformly with other property, whereas, the minority section 1 provides for the taxation of all property, tangible and intangible, in proportion to its value.

The next difference is as follows:

The minority section 1 requires that the General Assembly shall provide that, concurrently with the levy of taxes upon all property in proportion to its value, a tax shall be levied upon all incomes from whatsoever source derived at an uniform rate, except that a lower rate may be imposed upon income derived otherwise than from property; whereas, the majority section 1 provides that income taxes may be levied also and that incomes not derived from property may be taxed at a lower rate than incomes derived from property, thus merely permitting, but not requiring, the General Assembly to enact any income tax law whatsoever, and further permits the General Assembly in case it does enact an income tax law or laws, to provide therein that the tax shall be graduated and progressive, provided, that the highest rate shall not be more than six times the lowest rate.

The next difference is as follows:

The minority section 1 provides that the taxes levied on property in proportion to its value and paid shall be deducted from the income tax derived from such property for the same year, whereas, the majority section provides as follows: "The General Assembly may provide that such income tax (meaning any income tax) may be substituted for the tax which otherwise would be levied upon any property by valuation."

I shall endeavor to discuss as briefly as the importance of the matters at issue will permit of, the relative merits of the minority and majority reports in the respects in which they differ.

It is sought by the pending motion to substitute one thing for another, and therefore in order that such motion shall prevail I admit that it is incumbent upon those who favor the motion to show that the thing sought to be substituted possesses superior merit to that of the thing for which it is sought to be substituted, and hence it is not only germane, but indispensable to a proper discussion of the pending motion to thoroughly and carefully analyze and scrutinize both the minority and majority reports in the respects in which they differ and which I have pointed out and to compare the one with the other with a view to determining which of the two is possessed of the greater value.

The first material difference between section 1 as reported by the minority and as reported by the majority, is, as I have heretofore briefly indicated, that in section 1 as reported by the minority, the General Assembly is required to provide for the taxation of all property by valuation

and at an uniform rate; whereas, under section 1 as reported by the majority the General Assembly is authorized to tax money, notes, stocks, securities, royalties, bonds, credits, participations in profits or property and evidences of indebtedness, or any one or more of such classes of property, at such rates and in such manner uniform as to class as may be provided by general law.

It may be presumed, I suppose, that in specifying these numerous kinds or classes of property it was intended by the majority to include, and only to include, every species of what is comprehensively termed intangible property, but upon careful inspection it clearly appears not only to include every known or imaginable species of intangible property but also that it includes well known and quite numerous kinds of property that are not intangible.

In this description of objects to be set apart for classification as the General Assembly may see fit you will find the following specifications in line eight of the majority section 1, "participation in profits or property." Manifestly two distinct kinds of participation are described in this language, one being participation in profits and the other being participation in property.

As to the first of these participations, it is apparent that even though the lucky profiteer should receive his profits not only in some kind of intangible property, but in tangible property, such as land or cattle or cord wood, or any other tangible property such property would be privileged to be classified for purposes of taxation. Now as to the other kind of participation—participation in property. Obviously that would include and entitle all kinds of partnership property, tangible as well as intangible, to partake of the benefits of classification. It would also make eligible to classification all real estate owned in joint tenacy or tenacy in common. In short under this wide open provision every known kind of property owned by more than one person, regardless of the proportionate shares of the owners, would be entitled to be classified for purposes of taxation.

I do not know and cannot say whether this language was used advisedly or inadvertently, but however that may be it certainly has a fine large meaning from a classification viewpoint, a meaning which if incorporated in our fundamental law would go far toward realizing the fondest hopes of an ultra-classification propagandist.

Generally speaking the difference thus far pointed out between the Minority and Majority Section One present the issue between uniform taxation of all property in proportion to its value, and classification of intangible property in such classes, for taxation, at such different rates, as between classes, and in such manner as the General Assembly may see fit.

With regard to this issue the meaning of the Minority Section One is apparent at sight. It is a straightforward, unambiguous pronouncement of a principle of equity and even-handed justice. It accords with common sense and common honesty. It is certain. It eliminates guesswork and conjecture. It precludes unjust discrimination and corruptly obtained advantage of one class of property owners at the expense of another. It stabilizes tax legislation and prevents it from becoming a sort of game of fox and geese between crafty lobbyists upon the one side and corrupt or gullible lawmakers upon the other. I shall at present defer further discussion of this radical difference between the two reports until I shall have commented somewhat further upon the other mentioned differences between the reports as to Section One. The Minority Section One requires that the General Assembly shall provide for an income tax upon all incomes and at an uniform rate, whereas the Majority Section One merely permits and does not require the General Assembly to enact any income tax law, but provides that in case the General Assembly should, under the permission given, enact an income tax law it may, in such law, provide that the tax shall be graduated and progressive, provided further that the highest rate of taxation shall not be more than six times as great as the lowest.

Although complaints have been made, and doubtless will continue to be made that an income tax imposes more or less of vexatious labor and annoyance upon the tax payers, the great majority of unbiased thinking people have come to believe that a judiciously framed and properly administered income tax law would not only be a good thing for Illinois, but also that in view of the enormous amount of taxes which must be obtained in the coming years, such a tax is imperatively necessary. It is my belief that this Convention will have made a grave mistake if it shall not make the enactment of an income tax law or laws mandatory upon the General Assembly as is provided in Section One as reported by the Minority.

I am aware that there is much conflict of opinion as to whether or not a so-called progressive and graduated income tax law is a good thing. For my own part I doubt the wisdom or justice of such a law. Possibly the abnormal conditions prevailing during the World War and to some extent still existent, may excuse if not justify the imposition of such a tax for National needs. During that war, whether necessary or not, profits undreamed of before were obtained, directly or indirectly, because of the war, mainly due to the pernicious cost plus profit system of contracting for war supplies, which in effect compelled the making of many contracts other than war supplies contracts upon the same extravagant plan. While two wrongs cannot make a right, the provocation to exact enormous taxes out of these enormous profits was very great, and in a poetical sense might justify doing it in the circumstances, but I perceive no good reason why such a departure from uniformity in taxation under conditions existing or likely to exist in Illinois as a State should be provided for in her organic law.

The adoption of the rule of uniformity in taxation of tangible property in proportion to its value is recommended in both the Majority and Minority reports as to taxation of tangible property. To depart from that rule in the taxation of incomes derived from intangible property as a graduated and progressive income tax would necessitate seems to me to be palpably inconsistent.

Furthermore, the financial obligations of the National Government are so almost inconceivably enormous that it will be compelled to work the graduated and progressive income tax field for practically all it can be made to yield, in which case a graduated and progressive income tax for State purposes would probably be of no great value as a producer of revenue for a state and its taxing subdivisions. It is worth our while in this connection to remember that for each dollar of tax annually collected from the people of Illinois for State and local government, more than two dollars are now, and probably for many years to come, will be collected from Illinois people for the maintenance of the Government of the United States, and also that Illinois' proportionate share of the National debt is about one billion seven hundred and fifty million dollars, upon which the annual interest charge is more than seventy-two million dollars.

However, the thing most to be feared with respect to an income tax law in case the majority section 1 should be adopted, is not the character of income tax permitted, but it is the probability that no income tax law whatsoever will be enacted. Without doubt the merely permissive word "may" instead of the mandatory word "shall" was employed in the majority section 1 conferring authority on the General Assembly to enact income tax laws, with the design and for the purpose of leaving a way open to prevent the enactment of income tax laws not to the liking of the powerful interests back of the classification propaganda.

Do not understand me to mean that all or nearly all who agreed to the majority report were or are cognizant of such design, and its scope, for that is not my belief, but whatever may be the attitude of classification propagandists with respect to income tax laws in general, a Constitutional provision making it mandatory upon the General Assembly to enact an income tax law or income tax laws such as is embodied in the minority section 1, will practically assure the enactment of an income tax law by the General Assembly first convened after such a provision shall have become a

part of the Constitution, because legislators who would ignore such a mandate, so recently voiced by the electorate, would know that they would very soon be relegated to private life and that there would be put in their place those who would comply with it.

The minority section 1 not only makes it mandatory upon the General Assembly to enact an income tax law, but greatly simplifies the job by providing that the law shall tax all incomes and tax them at the same rate, except that income not derived from property may be taxed at a lower rate than incomes derived from property, which exception is the same as in the majority section 1.

In the minority plan it is not only made obligatory upon the General Assembly to enact an income tax law, but also that the tax shall be levied concurrently with the levy of a tax upon all property tangible and intangible by valuation. This provision that the two taxes shall be levied concurrently is in my estimation a very important and valuable one. Competent assessors working concurrently and conjointly can by the exercise of reasonable intelligence, and with the aid of properly prepared questionnaires, go very far toward ascertaining not only the correct amount of a taxpayer's income, but also the value of the property from which the income is derived, and also the amount of income derived from sources other than property. This method under which the taxing authorities make the assessment of the taxpayers' income instead of leaving it to the taxpayer himself to make it, has been recommended by thoughtful writers upon the subject, as an improvement which should be made upon the present method of assessing Federal income taxes, under which method the taxpayer himself makes the preliminary assessment, and the Federal authorities review and in many instances reassess it *ad libitum* and at their leisure. It is ably contended by these writers that if the initial assessment were made by the taxing authorities instead of the taxpayer the work of the reviewing authorities would be much sooner completed than under the present method, and consequently that the taxpayer would much sooner learn what if anything further is required of him to put an end to the matter. In Illinois the ultimate reviewing authority would logically be the State Tax Commissioners' department, to which department powers adequate to the needs of the case could and should be given by statutory enactment.

I would like to read very briefly something pertaining to State Tax Commissions, and the opinions of men who have given it study and observation, reading from a volume of reports of the annual meeting of the National Tax Association, which is not an official organization, held in Chicago in 1919. Some of the language I will read is very familiar to one or more members here. One speaker said:

"The question of taxation is a question of equalization—the equitable distribution of the burden of government; and speaking from our experience in Arizona, I say to Illinois that if you first create a state tax commission, give it unlimited power and unlimited revenue and charge it with the one problem of bringing about equalization of taxes in the State of Illinois, and then let it alone, I think that your questions will solve themselves much faster than you have any idea or than you can hardly comprehend." Another said:

"Briefly, the tax commission law will give the commission the following power: To confer with and advise and assist local taxing officials; to prescribe general rules and regulations governing the activities of local taxing officials; to require the attendance of local taxing officials at certain meetings for the discussion of problems relating to taxation; to order reassessments whenever in the judgment of the commission reassessment is desirable within a county. A reassessment may be ordered with reference to the entire valuation in the county or with reference to the valuation within an assessment district of the county, or with reference to the valuation of some one or another class of property within the county. The commission itself has no power to make an original reassessment. The re-

assessment, when ordered, must be made by the local board of assessors and be subject to review by the local board of review. In that respect it does not go as far as the laws of some of the other states. However, I regard the law as it stands a distinct advance. We believe it will lead to closer co-operation between the taxing officials of the various counties, that it will tend to bring about a greater equality between the various taxing districts and the various counties of the State, which, under the state board of equalization, has been impossible. The tax commission will have the powers of original assessment, which Mr. Abbott told you of, which have been held by the state board of equalization. They will have better equipment than the state board of equalization ever had, and it is hoped and believed that they will exercise those powers with far greater equity and far greater efficiency than has ever been done in the past by a board composed of twenty-five members, elected each in a presidential election, from our twenty-five congressional districts."

Mr. REVELL (Cook). Will you give us the name of the speaker?

Mr. KERRICK (McLean). There might be some embarrassment because of that; I don't know as I will.

Mr. REVELL (Cook). It might add value to it, if it was well known.

Mr. KERRICK (McLean). It was a member of the association, and Mr. Sutherland who had just come from Springfield was posted about what the Tax Commission statute provided and he recited it briefly, and did it in good form, too.

Mr. REVELL (Cook). That does not answer me, giving me that information.

Mr. KERRICK (McLean). I think we have something like a rule here which would indicate it was a discourtesy to call another member by name and I was trying to keep within the rule.

Lastly, there is a material difference between section one as reported by the minority and as reported by the majority in the following respect:

The minority section one provides that taxes levied on property by valuation and paid shall be deducted from the income tax derived from such property for the same year, whereas the majority section, although it contains this same language, empowers the General Assembly to nullify it in the sentence immediately following it, which sentence, beginning in line eighteen of the majority section one is as follows: "The General Assembly may provide that such income tax may be substituted for the tax which otherwise would be levied upon any property by valuation.

I shall now revert to a further discussion of what appears to me to be the paramount issue or question for our consideration. In substance that question is: Shall all property taxable in Illinois be taxed in proportion to its value? Or shall intangible property be exempted from this rule and be classified for purposes of taxation in such classes, and taxed at such rates per cent and in such manner as the General Assembly may see fit to provide?

There is owned in Illinois a vast amount of intangible property. From its nature its aggregate value can only be approximately computed. But there are obtainable, data, which justify the assumption that its total value is equal to or greater than the total value of all tangible property taxable in Illinois. In support of this assumption I offer this following data taken from Webber's Weekly, a publication with which probably you are all familiar. It is edited and published by George W. Webber, a writer upon taxation and other economic subjects with whom most of, if not all, the members of this committee are acquainted. The selection was made in part from the Webber publication numbered 24 and dated September 30, 1916, and in part from the one numbered 46 and dated February 28, 1920.

Mr. Webber's estimate of the value of intangible property taxable in Illinois is arrived at by items as follows:

Recorded mortgages	\$2,000,000,000
Bank deposits	3,000,000,000
Credits	1,000,000,000
Money not in bank and notes and securities not recorded....	1,500,000,000
Annuities	1,000,000,000
Excess value of going concerns, not assessed, but capable of assessment	5,000,000,000
Bonds and stocks of corporations organized outside of Illinois	1,000,000,000
Total	\$10,000,000,000

Mr. Webber does not include in these estimates the value of stocks of corporations organized within the State, under Illinois law. Doubtless the value of these is far greater than the value of stocks and bonds of corporations organized outside of the State.

There are data from which it may be fairly assumed that the value of such stocks is as much as \$2,000,000,000, which would bring the total value of intangibles up to \$12,000,000,000. The full value of tangibles assessed for 1919 was \$8,220,349,814—gives a total tax base of \$20,220,203,814, upon which a tax of one per cent would produce \$202,203,814 of revenue. If, as claimed by classificationists, the valuation of tangible property should be increased 30 per cent, it would increase the total tax base to \$22,686,453,458, upon which a tax rate of one per cent would produce \$226,864,534, or about \$52,000,000 more than the total collected for the year 1919. The value of intangible property as assessed for 1919 was on \$404,442,968, less than one-twentieth the value of tangible property.

It has been demonstrated in Ohio, one of the greatest and most progressive states in the Union, that the expenses of government of such a state and all its political divisions and subdivisions can be paid with the product of a one per cent tax upon the value of the property owned in that state, with the addition now and then, by a vote of the people of the district to be affected, of one-half per cent for some exceptional purpose. If the thing can be done in Ohio it can be done in Illinois.

At an election in Ohio, held about a year ago, the people served notice upon all concerned, by a majority vote of more than 1,000,000 against classification, that Ohio had no use for classification in her business.

High as taxes are now they will be increasingly higher for years to come. From every part of this State we have been assailed with requests strongly savoring of demands that we provide authority for the production of more and more and yet more revenue for almost every conceivable public or supposed public use. We have already gone far in that direction and doubtless will go yet farther. In no long time the combined needs of State and local government will quite likely exceed two hundred and fifty million dollars, annually. In that event the tax rate will have to somewhat exceed one per cent on the base that I have mentioned, but whatever that rate may be there will be no murmuring on the part of tangible property owners provided tangible and intangible property owners share the burden alike. But on the contrary if, through the action of this Convention, a scheme of taxation is presented to the electors of Illinois whereby the General Assembly is given free rein to favor this or that or the other class in the matter of taxation, to whatever extent the inclination of its members or corrupt practices of venal and interested lobbyists and their opulent employers may lead them, the Illinois electorate will repudiate such scheme in a far more emphatic way than the Ohio electorate repudiated the classification scheme presented to it, a year or so ago.

Even in the recent years of "easy money" the burden of taxation has borne heavily upon the backs of tangible property owners.

They have not only paid their own just share of the cost of maintaining government for the protection of all persons and all property in Illinois, but have paid about 39 fortieths of the share which was justly due from tax shirking intangible property owners. How long do you think they will tolerate such rank injustice, in view of present conditions brought about

by the much vaunted deflation scheme concocted and executed by those who control the money of the country in conjunction with certain agencies of the National Government? How do you imagine the food producers, who have suffered nine-tenths of the loss occasioned by that ill-timed and ill-intentioned deflation will feel when, after having their pockets picked like that, they are compelled to scrape up the money from somewhere or somehow to pay not only their own share of taxes but nearly all of the share of tax slackers in addition? We hear much talk about "unrest" these days. Some kinds of unrest are the offspring of ignorance, unreasoning prejudice and false teaching of designing and unscrupulous leaders, which kinds of unrest while they exist may cause much trouble and alarm, but which, having no firm foundation in justice, can inflict no radical or irreparable injury in communities of intelligent people.

But where there is an unrest which is the manifestation of a righteous indignation caused by long continued and evil disregard of the legal and natural rights of one class by another class, consequent trouble will come which will not cease until the wrong which caused it is righted, whatever the means required to right that wrong may be.

Until within comparatively recent years taxes were not so onerous as to create a wide-spread and deep seated hostility to the iniquitous practice of tax evasion. It has not been very long since I have heard people flip-pantly admit and even boast of evading the payment of taxes, but with the recent material and progressive increase of the tax burden widespread and intense public sentiment in favor of putting an end to the dishonest and pernicious practice has arisen. All over this State it has developed to a point where people who honestly pay their taxes will not only sanction vigorous prosecution of offenders, but will actively assist in making prosecutions successful. This public sentiment is not transitory. It will persist and continue to grow and become stronger and stronger as taxes become more and more burdensome. If this wrong is not righted there will come a time when public sentiment will stigmatize the tax slacker equally with the military service slacker.

Of a truth this is not a propitious time to attempt by constitutional enactment to confer favors upon tax evaders—in other words, to legalize a practice which has become a stench in the nostrils of honest people. I have used the words "confer favors" advisedly. Classification in taxation means, if it means anything, that every dollar's worth of intangible property may and will be taxed at a lower rate than a dollar's worth of tangible property. Not only will the rate be lower if classification is authorized, but it will be as low as the law makers can be induced to make it by any means known to the unscrupulous lobbyist and his employers, and if one General Assembly withstands the pressure, means will probably be found to replace it with one less biddable. Class will compete with class to be rated even lower and yet lower, and we may be assured that no class will ever be found consenting to a higher rate than has once been obtained by it, no matter how great the need of revenue may be.

And do not overlook the fact, gentlemen of the committee, that under the provisions of section one as reported by the majority there may be no rating at all as to intangible property, in the ordinary sense of the word rating. In the majority section one the General Assembly is not limited in taxation of intangibles to taxation in accordance with any specified rates. It may tax intangibles at such a percentage of their value as it may see fit, or it may, if it sees fit, decline to employ the rating method at all. In short, it may tax intangibles in whatever manner it may choose to tax them. Listen again, please, to the language conferring authority upon the General Assembly with respect to taxation of intangible property. It is this: "The General Assembly shall have power to tax notes, stocks, securities, royalties, bonds, credits, participations in profits or property, and evidences of indebtedness, or any one or more of such classes of property at such rates and in such manner uniform as to each class, as may be provided by general law." No language could more clearly empower the General Assembly to

tax all intangible property in any manner which its imagination could conjure up. Under this unlimited license the General Assembly could practically exempt intangible property from taxation.

New York had a law which, though called a tax law, operated to exempt investment securities from taxation for their entire lifetime, in consideration of one payment of fifty cents for each one hundred dollars of the value of the securities. It was in operation for three years, from 1912 to 1915. During that time there was of course a rush by owners of such securities to avail themselves of such a soft snap. During that three years it produced \$3,600,000 of revenue, but for that price it exempted from taxation \$750,000,000 of property—about one-sixth of all the property in the State of New York assessed and liable for taxation. More than 90 per cent of this sum was exempted for periods of more than twenty years, and in the case of some of the securities the exemption extended through periods ranging from eighty-five to four hundred and fifty years. That was a clear case of killing the goose that laid the golden egg, and it should serve as a warning to us, I think, that if the General Assembly of the great and so-called progressive State of New York could be persuaded to enact a law like that, the General Assembly of Illinois could be persuaded to do the same thing, or something silly and vicious if it were given constitutional license to do it, as this provision in the majority section one undoubtedly would.

Under its go-as-far-as-you-please license the General Assembly of New York in 1916 enacted an income tax law which provided for taxation of income derived from intangible property, but apparently there was a still small voice, but which voice was sufficiently potent to procure a provision to be inserted in the act by which it should cease to operate on intangible property at the end of three years. The effect of that cessation is best described in a New York news item which appeared in the Chicago Tribune, October 4, 1919, a verbatim copy of which is as follows:

"PERSONAL TAX DROPS \$4,000,000 IN NEW YORK.

"New York, Oct. 3 (Special). Personal tax valuations in this city are decreased \$610,093,225, according to figures made public today. The decrease is largely due to the new state income tax law which limits the local assessors to tangibles. The loss to the city next year is estimated by Mr. Cantor at \$4,000,000. This is in part offset by an increase in real estate valuations which total \$208,508,000."

I distinctly remember that in the earlier sessions of the Committee on Revenue, Taxation and Finance, when the powerful propaganda for the inculcation of the classification doctrine, fondly referred to by the propagandists as the "Campaign of Education" had not lost its hold on a good many people's minds, who had heard only one side of the story, and the propaganda itself had not yet declined into the sere and yellow leaf stage into which it has since shriveled in Illinois, there was much laudation of the New York plan of which I spoke but from day to day and week to week the praise of this and similar plans grew fainter and fainter until it ceased to be publicly heard in the committee meetings.

Among the earlier proposals referred to the committee there were some that attempted no concealment of an intention to almost if not entirely exempt intangible property from taxation. I have in mind one proposal which provided that the General Assembly should determine what property should be exempted from taxation, but considerably provided that the General Assembly should not entirely exempt all personal property from taxation. The use of that word entirely in a constitutional provision struck me as a novelty and out of curiosity I carefully scanned all the constitutions Illinois ever had, without succeeding in finding the word "entirely" in any of them. Although, as time went on, that sort of thing appeared to be received with less and less favor when openly and directly presented, nevertheless, gentlemen of the committee, I do believe that section one as reported by the majority, if carefully scrutinized and analyzed, as I trust it will be by

every member of this committee, will be discovered to be, in its meaning and in its probable future judicial interpretation, little else than a repetition of some of those earlier proposals to which I have alluded, in its application to intangible property. Under the unlimited permission which it gives to the General Assembly to classify and tax intangible property in whatsoever manner it may choose, providing only that in scaling the tax downward it shall halt just a trifle short of entirely exempting all such property from taxation, it in effect empowers the General Assembly to exempt from taxation one-half of all the wealth of the State.

For thirteen years or more Illinois has been the field of operations of a shrewdly managed and abundantly financed organization of propagandists whose objective was and is to inject into the laws of Illinois, constitutional and legislative provisions which would, to the farthest possible attainable extent, exempt intangible property from taxation. In 1907 this organization, through a special committee, prepared an amendment to the Constitution designed to permit classification of property for purposes of taxation. From that time on it maintained a lobby at every session of the General Assembly to disseminate the propaganda of classification. It urged, and by every means at its command sought to induce the General Assembly to provide for the submission of a Constitutional amendment which would not only permit classification of intangible property, but under which all personal property could be exempted from taxation. In 1908 it fairly deluged the whole State with a flood of one-sided classification literature. In 1909 it induced the General Assembly to revivify and re-enact a defunct bill for the creation of a special tax commission. The committee appointed under this bill was for all practical purposes one of its own selection. Having in effect created its own court, it accommodately relieved the court of much labor by laying before it data of its own selection, and one-sided arguments of its own production, in favor of a Constitutional amendment, not only authorizing classification but permitting the General Assembly to exempt all personal property from taxation, and thus empowering the General Assembly to adopt, if it should see fit, the out and out, unabridged, single tax plan for taxing land only.

This committee was nominally composed of John P. Wilson, chairman; Edmund J. James, secretary; Alfred M. Craig, B. F. Caldwell, A. P. Grout, Harrison B. Riley and B. L. Winchell. Substantially all the work of this committee was done by a committee within the committee composed of the Chicago members only, namely, John P. Wilson, Harrison B. Riley and B. L. Winchell, and a defacto secretary and general utility man, who was substituted for the nominal secretary, Edmund J. James, who never attended a meeting of the committee and never performed any secretarial or other sort of work in his connection with the committee. Alfred M. Craig, retired justice of the Supreme Court, who was far advanced in years and in failing health at the time of his appointment, having taken little or no part in the work of the committee; A. P. Grout, also deceased, attended but one meeting of the committee and did no other committee work. B. L. Winchell, at the time of his appointment, was the president of the St. Louis and Pacific Railroad company, and resided in Chicago. Not long after his appointment he removed from Chicago, and took very little part in the proceedings of the committee. The committee work performed by B. F. Caldwell, a banker and resident of Sangamon county, was negligible. The fact is, according to my information, which I have good reason to believe is accurate, that substantially all of the work of this committee was performed by its defacto secretary by and with the advice and consent of two Chicago members, namely John P. Wilson and Harrison B. Riley, all of Chicago, and all, as I have been informed and believe, members of the Civic Federation of Chicago.

It is not, therefore, very surprising that this Civic Federation, to use its own language, in 1910 "laid before this Special Tax Commission data and arguments in support of a Constitutional amendment establishing the prin-

ciple of classification, and that in 1911 it endorsed the amendment to the Constitution recommended by this Special Tax Commission and took a leading part in urging its submission by the Forty-seventh General Assembly," and that in "1912 it joined with other organizations in urging an amendment to Article XIV of the Constitution permitting three amendments at a time in order to avoid further constitutional deadlock," and that "with the co-operation of many organizations throughout the State, it secured 120,774 signatures to a public policy petition submitting for advisory vote the question of amending the Constitution to permit classification of property." No indeed! Not at all surprising, especially so as to the number of signatures obtained to the petition, in view of the well known methods used to obtain such signatures, and particularly when the public policy question is of such enticing and seductive quality as the one in question, and which I have the best of reasons for believing was composed verbatim et literatim by the de facto secretary and general utility man of the aforesaid Special Tax Committee and which I shall now read:

"Shall the next General Assembly (in order that the people may be relieved of a system of taxation which places a comparatively heavier burden upon the poor man than upon his wealthier neighbor, which is unjust to all who fall under its operation, and which places a premium upon dishonesty) submit to the voters of the State at the next following election an amendment to the Constitution providing for the classification of property for the purposes of taxation uniform as to each class within the jurisdiction levying the same?"

Would it be easy to get signers to such a petition? As well ask a duck "would he swim!"

We can well imagine that the response of many who were asked to sign that petition was somewhat as follows: "You betcher life I'll sign it. I'm for showing them rich dudes that's been gitten premiums for bein' dishonest and shirken their taxes, that they can't keep on shovin' 'em off onto poor folks. That thing's got to be stopt," and so forth and so forth.

Is it any wonder that enough signatures were secured to put this proposition on the ballot at the next ensuing general election, and is it any wonder that it carried by nearly two and a half votes for it to one against it? The surprising thing about it is that it did not carry by a much larger majority. But queer things will happen at elections some times, when voters are put off their guard by craftily worded propositions which seem to mean exactly the opposite of what they do in fact mean. As for instance, in 1904 an out and out single tax proposition which was so worded that it did not disclose its true character, and from which the words "single tax" were craftily excluded with regard and to which its proponents were careful in the campaign for its adoption to avoid saying anything or doing anything that would even excite suspicion that it was a simon pure single tax proposition, received in Illinois 476,780 votes for, to 140,896 against it. Nearly three and a half to one, and most surprising of all, as I learn from a publication issued by the Civic Federation of Chicago, even in rural communities, where a rejection of the single tax idea might be morally expected, it received "large majorities." Is it possible? Can it be possible, that the splendid success of the single taxers' strategy in 1904 suggested its use to the composer of the proposition which was so smoothly put over on us in 1912? Yea, my brethren, even in our rural communities where rejection of the single tax idea might be normally expected was it put over on us by "large majorities," as I am informed by this same Civic Federation publication, meaning by "rural communities," I presume, from the tenor of the article, all Illinois territory outside of Chicago. Again in 1913 the Civic Federation took part in urging the General Assembly to submit the amendments which, however, was defeated by conflicting constitutional proposals.

In 1914 the Civic Federation inaugurated what it calls a thorough-going campaign of education throughout the State, organizing the Illinois Tax Amendment Committee. So sagaciously and smoothly was this cam-

paign conducted that Illinois farmers and their organizations were led to believe that the movement was intended to reduce, and would reduce materially, the taxes on farm lands, and thereby not only obtained resolutions indorsing and commending the proposed amendment from numerous farm organizations but even induced the head of the principal farm organization of the State to stand sponsor for the soundness of the tons and tons of alleged educational literature with which they papered the State many times thick.

In 1915 this Federation, to use its own language, "Again took a leading part in successfully urging the submission of the Tax Amendment upon the General Assembly."

In 1916 the Civic Federation, to use its own language, conducted another statewide educational campaign and also published for circulation, a booklet with the hyphenated title, "Apace with Progress—The case for Taxation," from some left over copies of which, copious extracts seem to have been gratuitously contributed to the Legislative Reference Bureau to be used by the Bureau for information and direction as members of this Convention.

In this 1916 campaign the State was again papered with several thick-nesses of classification literature. Numerous small down State newspapers published prepared classification matter when accompanied by a check. Speakers, loaded, cocked and primed with classification ammunition, were sent all over the State to shoot it off, at the hundred and one conventions of one sort and another held annually in Illinois, and at any other sort of organization meeting at which they could obtain permission to speak. In fact it was some campaign, and must have cost quite a bit. It concluded with a gift of a two dollar and a half check mailed to each of the more than ten thousand district committeemen of the Republican and Democratic parties for services they were urged to render on election day in the way of getting votes for the amendment.

In the meantime the financial backers of the amendment were sufficiently powerful politically and otherwise to secure a public endorsement of the amendment from every candidate of the Republican and Democratic parties for an office of any importance, and also the endorsement of the amendment in the Republican and Democratic state platforms, with the to them no doubt surprising result that the amendment failed of adoption. Although the mountain had labored, and had labored prodigiously, it had not so much as brought forth a mouse. As Abraham Lincoln so pithily and sagely remarked, "You can fool some of the people all of the time and all of the people some of the time, but you can't fool all of the people all of the time." Have any farmers' organizations recently declared themselves in favor of classification of property for purposes of taxation? They have not. Did any Republican or Democratic candidate declare himself for it in the campaign recently ended? No. Did you observe any declaration favoring it in the State platform of the Republican or Democratic parties? You did not. Have the down State newspapers recently published matter commending classification? They have not.

In view of this and much other evidence of the decadence and unpopularity of classification, what reasonable doubt can there be that if this Convention shall present to the voters of Illinois a classification amendment such as is embodied in the majority section one, that they will repudiate it by a majority vastly greater than the hundred thousand majority by which Ohio repudiated classification a year ago.

One contention of the classificationist is that intangible property is not property at all, and therefore should not be taxed at all. The answer to that contention is that intangible property is property and taxable property, as has been held, and will continue to be held by our Supreme Court, and as is confessed in the majority section one by providing to tax it to some extent. Therefore that contention is not at issue in this discussion. Another assumption is that taxation of intangible property is double taxation. Not only has this been negated by our Supreme Court, but the puerile and

futile stock illustrations used in its support have long since been worn threadbare by ceaseless reiteration. An old and familiar acquaintance in this group of illustrations is the case of the \$100 horse and the \$100 note given in payment for it. They say that both the note and the horse might be taxed, and so they might, but inasmuch as it is the settled law of this State that the note is property just as much as the horse is property, it is not double taxation to tax them both. But even if such were not the law, such notes are usually payable within a year, and would never be taxed but once, but horses have a habit of living twenty years or more, and get taxed once a year for twenty years or more, and twenty and one are not twins. Another of these stock illustrations, and I think these two practically comprise the whole stock, is the violently supposed case wherein A borrows \$1,000 from B and gives B his note for it, and the next day lends it to C and takes C's note for it, and so on from day to day and from one borrower to another, for three hundred days, whereby that marvelous note progenitor, the original one thousand dollar note, has added two hundred and ninety-nine more thousand dollar notes to the note family, and thus creating as they claim, that many dollars worth of fictitious property. Now, gentlemen of the committee, you are all men of large business knowledge and experience, and although some of you may have known of a few instances wherein one man borrowed money at current rates and gave his note for it, and the next day as an accommodation, loaned the same money at like rate to another man, it is extremely doubtful however, if any of you ever in your lives knew of a case where the second borrower passed the same money on to a third borrower. I am absolutely certain that none of you ever knew or heard of such a fool thing occurring as is described in this far-fetched and silly illustration. The only sort of place I can conceive of where that kind of monkey business could be acted out would be in an asylum for the insane, or an institution for the feeble-minded, containing as many as three hundred inmates sufficiently tractable to follow the instructions of their keepers. Such an illustration irresistibly provokes the application of *argumentum reductio ad absurdum*.

Then there is the supposed pathetic case of the poor widow who only has twenty or thirty thousand dollars to loan. To make her case patheticker and patheticker she is usually described as having her money in a savings bank where it earns her but three per cent annual interest, notwithstanding the fact that individual savings banks deposits are limited by law to \$2,000, and the further fact that she could readily and safely loan her money at six per cent interest instead of three. If the law ought to favor this money loaning widow, what, let me inquire, in the way of gratuities should be given to the more than seven million women, married, single and widowed, in this nation who have no money at all to loan, and who, as statistics show, are earning by their own industry respectable livings in respectable employments. If ye have tears to shed why not shed a few of them for these seven million women, who work instead of folding their hands in idleness and claim that the world owes them a living without their contributing such effort as they themselves could make toward earning their own support? Alas, I fear there is much of hypocrisy mingled with this crocodile tear shedding by opulent champions of classification on account of this supposititious widow. Why shall we not say to them, come out all of you like men's men from your hiding place behind this poor widow's skirts, and pay your just share of taxes on your combined billions, and thereby lessen this poor widow's taxes by half or more?

Another urgent and touching appeal for classification of intangible property for purposes of taxation comes to us from that cult of moralists who profess that it would be a cure, immediate and sublime, for that baneful malady, habitual perjury in the matter of making tax returns. I must confess that I have no faith in that prescription for that disease. In my copy-book days one of the truisms set for me to copy was "Who steals a pin would steal a greater." The reverse of this is too often true if the chances of detection and punishment are equal. To teach this sort of uplift doctrine

reflects no credit upon its teacher. It is to advocate a degrading and disgraceful compromise with vice. Is there any moral difference between offering to accept a small fraction of a just tax in satisfaction of the whole because of fear that a tax slacker by resorting to perjury will beat the public treasury out of the whole of it, and offering immunity to a thief who has stolen money from the public treasury upon condition that he will return to the treasury a small fraction of the stolen money because of apprehension that by resorting to perjury he might escape conviction of the crime and keep all of the stolen money? I am unable to see any, and yet the latter would constitute the crime of compounding a felony and be punishable as such under the criminal law of this State.

Another thing asserted as an argument for classification is that unless intangible property is taxed at a much lower rate than tangible property, capital will be driven from the State and interest rates will be higher.

Mr. James Houghan, state tax commissioner for Wisconsin, at our chairman's invitation, addressed our committee relative to Wisconsin tax laws and their operation. He spoke of the results obtained by a well organized drive made by this department to effect an increase in the revenues derived through the Wisconsin income tax law from intangible property. He stated that the results from the movement were exceedingly gratifying. There was a very large increase of revenue from that source.

He was asked by a member of the committee if this did not cause withdrawal of capital from the State. He replied promptly and very emphatically that it did not. He said that there were dire predictions and threats and rumors that such would be the case, that he was even told of specific cases in which it was alleged that this had already occurred, and that in order to learn the facts about the matter his department instituted and carried on a comprehensive and thoroughgoing Statewide inquiry and investigation to learn the facts in the case, from which investigation it was discovered that there was no foundation whatever for the predictions or specific statements that any capital had been withdrawn or would be withdrawn from the State in consequence of the large increase of revenue obtained by the drive.

I remember very well that in 1879, when a bill was pending in our General Assembly to reduce the contract rate of interest from ten to eight per cent, that it was violently opposed by many bankers and brokers and loaning companies upon the ground that it would not only prevent capital from coming into the State, but would drive capital out of the State. The bill became a law, and neither of those things happened, but on the contrary not only did no capital go out of the State on account of it, but capital came into the State in such quantity that within a year or two loaning companies competed with each other in their efforts to loan money to such an extent that on real estate security money was readily obtained at seven per cent, and in many instances at six per cent, and in some cases even lower, and loan brokers' commissions, which while the ten per cent law was in effect were five per cent, were reduced to two and one-half per cent, and, in many instances, to less than that.

The seven years from 1873, the year of the worst financial panic ever experienced in this Nation, to 1880, were the seven leanest financial years ever experienced in succession by Illinois. There had been no bankrupt law for many years previous, but insolvency became so generally prevalent that Congress, in response to a widespread and insistent demand for a bankrupt law, enacted one. Immediately after its passage petitions by the thousands, voluntary and involuntary, were rushed into the bankruptcy courts. Scores of people in almost every community, whose solvency had not before been suspected, filed voluntary petitions showing them to be hopelessly insolvent. Notes held by banks and others, supposed one day to be worth a hundred cents on the dollar, were known the next day to be worthless. Along with all this was the added stringency caused by the efforts of the National Government to bring the value of its paper money to a par with

gold by a fixed day. During these seven years much of the rebuilding of Chicago took place, and in addition a vast amount of borrowed capital was required for building Chicago greater than before the great fire, and this capital was obtained both from within and from without the State, at moderate rates of interest.

When, in 1889, the General Assembly again lowered the contract rate of interest, from eight to seven per cent, the same cry went up from the same sources as in 1879, about driving capital out of the State. I chanced to be a member of the State Senate at that time, and know how greatly agitated the money loaning interests were, through fear that a pending bill which provided for a contract rate of six per cent might be passed, of which however at that time there was no probability. A banker member, as a sort of backfire, and to make a virtue of necessity, introduced the bill under which the seven per cent rate was established. Not very long after the contract rate of interest was lowered to seven per cent, the very banker who introduced the seven per cent bill was loaning money at six per cent, as bankers in general were.

There is no occasion for alarm, my friends, about capital going out of Illinois or not coming into Illinois. Whatever we may do about taxation, Illinois is far too desirable a State to loan money in, for that. Temporarily, now and then, a money stringency may occur, but as a rule money does not go into retirement for any great length of time. It may bluff a little now and then about what it will do or will not do, if the General Assembly or this Convention does or does not do this, that or the other, but eating into the principal instead of seeing it augmented by incoming interest is not an occupation in which its possessors experience sufficient delight to induce them to continue it through protracted periods.

The assertion is made by classificationists, it would unduly dignify it to call it an argument, that all progressive states are classification states. By way of proving this assertion they employ a syllogism substantially as follows: "All classification states are progressive states. New York and North Dakota and other named states are classification states, therefore New York and North Dakota and the other named states are progressive states. This is a handy rule. It works both ways. For instance: "All states which are not classification states are progressive states. Illinois and Ohio and other named states are not classification states; therefore, Illinois and Ohio and other named states are progressive states." You can prove anything if permitted to select your own premises. To even hint that Illinois is not the equal in progress of any State in the Union, or of any country or state in the world, indicates gross ignorance or mendacity in the asserter.

A favorite exercise of the classificationist is to damn with faint praise the framers of our own present Constitution, a body of men of whom competent critics have said there was not a mediocre member in it. The classificationists now say of them that they were very nice, respectable gentlemen and pretty smart for their day and generation, but that they were not men of vision who could see far enough ahead to anticipate and make provision for the myriad human activities and needs which have come into existence during the succeeding fifty years. But just what it was they didn't know and failed to provide for, because of their alleged inability to read the future, I have never yet heard specified, or satisfactorily explained. They had committees as we have. They had about the same number of committees that we have. Although not precisely of the same names in every particular, in their combined purpose and scope they embraced every subject with which our committees and this Convention have to deal, save only the subject of initiative and referendum. Fundamentals in government are not subject to frequent change. Nor is fifty years reckoned a long period in the life of a state. Real constitutions are not framed nor intended to be changed with every considerable increase of population. The Constitution of the United States became effective about a hundred and forty years ago. The only radical changes made in it were those occasioned by the Civil War,

although population under it has increased by more than a hundred millions, and to a total of near twenty-five times the population at the time of its adoption. Were the men who framed the present Constitution in 1870 informed about corporations and their multitudinous ramifications? They were. Corporations great and small had existed hundreds of years before that time, and those men knew enough about them to provide for their uniform organization in this State under general law instead of by capricious and often vicious special acts of the legislature, as have been the case before. Did they know about railroads? They did. Illinois in 1870 had more miles of railroad than any other state in the Union, and held that lead for more than thirty years under the present Constitution—and not more than two or three states have caught up with Illinois yet in that respect. That convention was the pioneer in providing for the reasonable regulation of railroad charges and the enforcement of that provision. All the other states and the United States followed the lead of Illinois in that regard. She showed them the way. Strange, is it not, that none of the classificationists' so-called progressive states could discover it for themselves? The reason they did not was because they were all the time thinking that it could not be done because it never had been until Illinois showed them that it could be done and how to do it. I might call the roll of every thinkable form of human activity present in Illinois today, and ask whether those men who framed the present Constitution of Illinois were informed about them, and the answer would have to be that they were. The only material change since their day as to human activities is the increase in the number of actors.

The Revenue Committee of the 1870 Convention was presided over by Milton Hay, one of the brainiest and all-around able men Illinois ever had. I knew him well, and knew the high esteem in which he was held by Presidents, Governors, United States Senators and statesmen of lesser degree, and the bar and the courts. There were many revenue propositions considered by that committee other than the one adopted, among them propositions to classify property for purposes of taxation. But the wide range of Mr. Hay's knowledge of facts pertinent to the case, combined with his rugged common sense and forcible reasoning, easily enabled him to demonstrate to the satisfaction of that clear thinking body of men the superiority of the proposal adopted, over all others presented, and nothing has transpired since to show that Mr. Hay or the Convention went wrong about it.

I have observed, as no doubt many of you have observed who have tried to keep some sort of trace of the matter, that in states where the constitutions license them to do so, the legislators are constantly tinkering with the taxation laws. Every member who gets, or whose boss gets, a new taxation notion in his head bumps it into the legislative hopper. Tax laws appear in the session laws of one session and their total or partial repeal appears in the session laws of a session or two later. The whole taxation business is continually undergoing change to fit this, that or the other theory of taxation, of which there are an unlimited number. There is a glut of taxation theorists in the market, ranging from Professor Seligman to Henry George or Eugene Debs, college professors predominating. Seldom are any two of them found agreeing to any considerable extent. Upon one thing, however, there are a few of them that do agree—that ability to pay should determine the proportionate amount of tax which should be paid by each taxpayer, but they are hopelessly at loggerheads as to what constitutes ability to pay, and consequently get nowhere.

There is probably no rule by which the ability of individuals to pay taxes can be exactly measured. The best that can practically be done is to fix upon a standard which most nearly approximates equity and justice in its application, and then not sit idly by and expect to be self executive in the matter of its administration, and I firmly believe that no better standard by which to measure individual ability to pay taxes will ever be found than the proportionate value of the property owned by the individual taxpayer. Nor would the use of this standard conflict with taxation of income derived from property which is also taxed in proportion to its

value, provided, as would be the case under the Minority Section One, that the property tax derived from property shall be deducted from income tax derived from the same property in the same year. Now would it conflict with an income tax at an uniform rate upon incomes not derived from property, as is also provided in the Minority Section One.

I have said there is no substantial difference between the nature of the things now necessary to be provided for by Constitution and in 1870, and in the constitutional needs which were known and provided for by the men of the convention which framed our present Constitution. There was, however, a difference between then and now which no man living then, or no man living now, had he lived then, would or could ever have dreamed of, and that thing is the enormous burden of taxation, State and Federal combined, which now and for generations to come must be borne by the people of Illinois.

This unforeseen change of condition has created the need and justified the use of the income tax, rationally applied. Under the ad valorem property tax alone professional incomes, salaries, and the like escaped taxation in a very large measure. In 1870 professional incomes and salaries, particularly of experts, were very small compared with what they are now, and hardly worth taking into account as a source of revenue. But now they constitute a very valuable source of revenue, and under existing needs undoubtedly should be taxed, and this is unequivocally provided for in the Minority Section One, which provides that all incomes, from whatsoever source derived, shall be taxed.

Now, gentlemen of the committee, in conclusion I shall discuss for a little while the only thing which in my belief is worthy of serious consideration that I have ever heard advanced as a reason why we should abandon taxation of intangible property in proportion to its value, and substitute in its stead taxation by classification, or, to use the language employed in the Majority Section One, taxation in such manner as the General Assembly shall see fit to provide. The thing to which I refer is the claim made by classificationists that an attempt to levy taxes upon intangible property at a rate uniform with the rate upon tangible property, as provided in our present Constitution, has been made in Illinois, and that such attempt has failed at least in large part. If the claim went no further than this I would admit its truth at once. But the claim goes further than that, and to the effect that the fact that the kind of attempt we have made did not succeed proves that no kind of attempt or effort which we can make will be successful. Which is neither good nor is it true.

There are twenty-four states in this Union in which the effort to enforce taxation of intangible property uniformly with taxation of tangible property has succeeded sufficiently well to prevent classificationists from substituting classification for uniformity, although in many of these states classification propagandists have done their level best to effect such a change. Four times they have brought their heaviest artillery into action upon the Legislature of Indiana to induce it to submit a constitutional amendment providing for classification, only to have each succeeding attack repulsed to the great disgruntlement of the attacking forces. And yet neither has Indiana nor any other of these twenty-four states made as systematic and effective efforts as they or we might easily make in order to successfully enforce taxation of intangible property.

Let us start right at home and take our own State for an example, and from things within our own knowledge take the measure of our effort, if it may be called an effort, to obtain taxes from intangible property. While as a rule we hire a competent clerical force to keep business-like record of what taxes we collect, and to whom it is distributed, and there is system and good business when the bookkeeping is reached, but almost an entire lack of both of these prior to that. The average tax assessor is usually a man of little or no business ability or sagacity, and his lack of these qualifications is well known to practically every taxpayer in his district, or so apparent that even a stranger would in dealing with him readily detect it.

He is also as a rule grossly lacking in diligence. Why, it may be asked, have this sort of men been employed to make assessments? The answer is this: Until within comparatively recent years taxes have not been so large as to be very burdensome. It was not necessary to make any really businesslike effort to obtain revenue from intangible property, and qualifications for discovering intangible property were not considered necessary in an assessor. A half blind man, with little or no business ability or sagacity could get all the real estate and most of the tangible personal property on the assessment roll, and enough tax could be squeezed out of that without making people squawk or kick much. Because it did not hurt bad enough to make people sit up and take notice, the people of this and many other States became tolerant of this slipshod way of assessing, and indolently allowed it to dodder along in this shiftless way with little or no effort to better or improve it. I need not argue in order to prove what all you business men know to be true as gospel, that if any of you were to conduct your own business as we have fallen into the slovenly habit of letting tax assessment be done, you would go broke in no very long time. People owe their just taxes to their government, which protects them and their property on faith that in due time they will pay their reasonable portion of the cost, just the same as a charge account customer owes his unpaid and past due account to the merchant who lets him have on credit the wherewithal to clothe or feed himself and family. But if the merchant exercised no more business sense and diligence about collecting his credit accounts than we do in assessing for taxes, he would find himself in the bankruptcy courts in short order. Every competent banker, whether doing business in a metropolis or a rural community, keeps pretty accurately informed as to the financial ability of applicants and prospective applicants. He could assess them with a considerable degree of accuracy without asking them a question. Wideawake merchants know quite well to whom it is safe to give credit. As far away as Bloomington is from Chicago or St. Louis, merchants in both those cities mail hundreds of polite invitations to Bloomington people to open a charge account with them, as they do to thousands of people in other parts of the States.

Perhaps we can't hire these bankers and merchants to do our assessing, but we can hire a few men as competent as they to train other men to do business like assessing. The scare talk about "armies of assessors" and their cost does not frighten me at all. If the same amount we now pay for an annual assessment were paid to one-tenth as many men as we now hire to do the assessing, the number and quality of men who could be obtained at that price organized and directed by a qualified leader would be worth many times as much to the people of Illinois as the entire force of the quality we employ now. The urgent need of better talent and better organization in the matter of assessing for taxes has taken strong hold on the public mind of late. It is a live question, and public sentiment will back any measures which give reasonable promise of more efficient and productive, as well as more equitable and uniform, assessment of property for taxation. A good beginning has already been made in this and other States in the creation of state tax commissions. As yet our state tax commission's powers over assessments are very limited, but such as they are they have not only abundantly proved their worth, but also the excellent results already obtained through their use has made it very clear that supplemental further powers, manifestly adapted to obtain still better results, should be conferred upon that department, as is now being done in some of the other States. As was remarked before the revenue committee by a man probably as well informed in a comprehensive way about taxation, not only in theory, but in practice, as any man in the nation, "The main trouble in the past about enforcing tax laws has been the lack of a leader." That lack has been supplied in Illinois by the recent creation of a State Tax Commission, and the appointment of a commissioner. With adequate power given the commissioner and his department I believe the trouble

will be very largely overcome. I have read and heard similar comments from many other sources. Even if we were Missourians, and had to be shown a way in which intangible property could be discovered, or uncovered, for purposes of taxation, I have but to point you to the methods employed by the Federal Government to learn the amount of income subject to taxation, which netted the Federal Government in 1919 nearly \$400,000,000 from Illinois alone, and about six billion in the United States. When the amount of income has been learned the steps are comparatively few and easy to discovery of the character and value of the income and the source from which it was derived. Anyone who will examine the questionnaires used in connection with the process, and a few other implements in Uncle Sam's tool kit, will see that safe deposit boxes and similar places of concealment will be easy for them. The thing not only can be done, it has been done. The point to the argument that it can't be done because it has not been done is badly blunted by the fact that it has been done. The Federal Government has done it, and so can we. Those who still aver that it can't be done remind me of a remark made by a solemn visaged, lanky six-footer who, together with a companion of about the same build, had been gazing in silent awe and open-mouthed wonderment at the spectacular flight of an aeroplane at the State Fair a few years ago, when aeroplanes were a novelty. When the aeroplane, after flying around and about over the Fair grounds a number of times, volplaned down as gracefully and lighted as softly as a bird, on the racetrack just a few steps in front of the two, one of these old cronies turned to the other and remarked, with an air of great solemnity and finality, "Bill, I'll be darned if I believe it yet."

Mr. HAMILL (Cook). Mr. Chairman, I move that we do now recess until two o'clock.

Whereupon adjournment was taken until two o'clock p. m., Tuesday, November 8, 1920.

2:00 O'CLOCK P. M.

Committee met pursuant to recess.

Mr. GALE (Knox). Gentlemen of the convention, prior to this time I have prided myself on the fact that I have taken only a few minutes of your time in debate on the floor. I had hoped that I should not make any long, tiresome discussion, but it seems to be my duty as chairman of the Revenue Committee to debate in part section one of the Revenue article, as proposed by the majority of the committee and give you what I conceive to be the views of the majority of the committee, on that article and what I know are my own views.

I regret my disabilities and my disadvantages in this position; I am not eloquent, and I have no charms of oratory to make you think black is white, to make the worse appear the better reason; and such persuasive force as I may have in what I have to say depends not on me but solely upon the merits of the majority proposal. I expect this Convention to adopt the majority report not because of what I say or what anybody else may but because of the intrinsic value of that document, which I firmly believe represents a forward step in Constitution making in the State of Illinois. Before I proceed with what I have to say I want to make a suggestion or two along the lines of the speech of the gentleman who sponsored this morning one of the minority reports. The whole question here, gentlemen, is not, if you please upon the merits of the majority and minority report. The question is whether you are going to make mandatory upon the State of Illinois for the life of this Constitution the old constitutional provisions of 1818 (not 1870 because the revenue article now is not the work of the Convention of 1870, it is the work of the Convention of 1818), or are you going to leave the legislature free to draw a plan which many believe would revive the evils of our taxing system, or are you going out to the people of the State of Illinois and say to them that there are no evils in our taxing system, and when they voted for a new Constitution,—many of those votes were cast on the theory that we would reform the revenue article—and that when they voted for that

reason they were a pack of fools? The minority report does nothing but make mandatory forever the provisions of one hundred years ago. The majority report is not mandatory. The majority report is drawn in line with the best thought on Constitution making of the country. The majority report does not dispense with the ad valorem system of tax, so eloquently defended by the Senator from Bloomington; it permits that still to stay if the legislature sees fit, but it does give the legislature the chance, if it can reach intangible property by classification, so to do; if it can reach it by an income tax, so to do. It gives it a chance to put into effect the ad valorem system, and side by side with it, put into effect an income tax, a real income tax, not an income tax which is only a ferret for "picking other property" as the senator said this morning. It gives it a chance to substitute an income tax for the tax on property. In other words it gives the legislature an opportunity to put into effect in the State of Illinois, a taxation system which cannot be done under the Constitution of today, nor under the minority report, if that should be the Constitution of tomorrow.

The senator did not need to call into mind the great chairman of the revenue committee of 1870. I cheerfully admit that I have neither the ability nor the energy, nor the wisdom of Milton Hay, but I do not yield to Milton Hay or any other man that ever lived in the State of Illinois, this one thing, to-wit: that I have come to this Convention with the sole desire to be of service to the State of Illinois. I do not think it is necessary for me to answer the attack which the learned delegate made upon the Civic Federation of Illinois; I am not a member of the Civic Federation. It may be a good body or it may be a bad body, but surely it had a right to present to the people of the State of Illinois whatever it deemed to be wise, and should not be subject to attack, or need for defense, because of that reason.

The income tax provision, as the senator pointed out is a mandatory one in the minority report, and in my judgment that alone is sufficient to condemn the minority report in the eyes of the thinking men. The majority report permits the levy of an income tax but does not make it necessary, and it is the hope of the majority of the members of the committee that if the legislature be permitted to classify intangible property, and be permitted to levy an ad valorem tax on other kinds of property, it may mean years before the income tax is necessary in the State of Illinois, but the majority feel if the time comes, if it ever should come, that that tax is necessary, then the legislature should have the right to levy it. What is the advantage of "shall" over "may" in a Constitution? The provision is not self-operating. Can you mandamus the legislature to levy an income tax? Can you mandamus them even though you have there a mandatory provision of what they shall do; and a mandatory provision of that sort which is not self-operating in a Constitution, of itself is an absurdity. Again the gentleman objects to the term "participation in profits and property," stating that might include tangible property. Oh, no, participation whether in profits or property or intangibles. What is your illustration of it? Here is a man in the City of Chicago, we will say, or in the City of Springfield, who owns a building worth perhaps fifty thousand dollars and he pays taxes on it and he sells it to ten men none of them able to buy it, they each take one tenth of that building, and they hold the title in the name of a trustee. The trustee still pays taxes on it, just as the owner did, and the ten men each have their participation receipt. Now I am aware that does not often arise with reference to real property, but it often does arise with reference to tangible personal property. The participations are intangible, but the property itself is tangible.

The participations are intangible, but the property itself is tangible.

Mr. FIFER (McLean). May I ask a question for information?

Mr. GALE (Knox). Yes.

Mr. FIFER (McLean). Whether real estate owned by tenants in common yield a participation?

Mr. GALE (Knox). Certainly it would not. The title to the property itself, the tangible property itself, stands in the name of the tenants in common and joint tenants, and they pay their taxes on it as tangible property, not as holders of participation certificates or receipts.

Section one as framed in proposal 378 has been changed in these particulars, and I wish to call your attention to them specifically.

Mr. FIFER (McLean). Have you got the line there?

Mr. GALE (Knox). At the end of line two, we inserted this clause which was inadvertently omitted in the first draft, "for public purposes only." There is no further change in the first page. In lines eleven and twelve these words are stricken out "and income not derived from property may be taxed at a lower rate than income derived from property." The reason for that is the unfortunate experience of Massachusetts in attempting to make such a provision work, and in the opinion of the tax expert of the committee and this Convention, Delegate O'Brien, our attention was called to the fact that to make such a system work is practically impossible, because of the question of con-joining income from personal service and income from property, as in the case of the country merchant or farmer whose income comes in part from his property and part from his personal services. Massachusetts put it into operation and has found it substantially impossible to do anything with that provision.

The next change is in lines 17 and 18, which we change to read as follows: "Taxes levied by valuation on property in this State" to which we added "paid, shall be deducted from the income derived therefrom by the person or corporation paying such property tax." We added the words "in this State" so that it would be property in Illinois only which would be entitled to that deduction, and "by the person or corporation paying such tax," for fear this situation might arise: a man might own a building for instance, and lease it to some person with the provision that the lessee should pay the tax thereupon, and unless these words were put in the owner of the building upon which an ad valorem tax had been paid by the tenant, would be entitled to deduct that tax from any income tax of his. Therefore that should be remedied.

Mr. KERRICK (McLean). You speak of the lessee in the lease paying taxes. I don't know just how far that goes at the present time. We have a statute which to a large extent makes that unlawful.

Mr. GALE (Knox). It might be made unlawful by statute, but so there might be no question of what we meant in this report we inserted those words. Our meaning was only that no person should deduct that ad valorem tax from his income tax unless he himself had actually paid the ad valorem tax. Now the next change we made was in the following clause beginning on line 18 and ending on line 19. We substituted the clause "the General Assembly may provide for a uniform income tax." This gives the legislature the right of substitution, substantially as it was given in the original report, and then adding "but in such case the rate of income tax so substituted shall be uniform and substantial, and there shall be no exemptions therefrom, except as provided in section 3 of this article."

Mr. REVELL (Cook). Will you state what the word "substantial" means as used in that line.

Mr. GALE (Knox). The idea of that clause, Mr. Chairman, was this. We have given the General Assembly power to levy an income tax which shall be graduated and progressive, providing that tax is used as an addition to other forms of taxes. I shall come to that later, in my talk, but personally I believe that that is a correct principle. Now we have further provided that that income tax as to personal property, either tangible or intangible may be substituted for the property tax, and when so substituted it ceases to be altogether an income tax and it becomes to some extent, as it were, a tax on property, and it seemed to the committee fair and right, if it ceased to be altogether a personal tax and became a tax on property or in lieu of the tax on property, and therefore in effect a tax on property, that it should be at a uniform rate, so that all persons would pay in proportion to income that they got from that property, without reference to their higher personal earnings. If that were to be done the ordinary rates of income tax would not produce a fair return, and therefore we felt that

the statement should be made, while it is very general, and cannot I admit control the legislature, that nevertheless as an indication of what this Convention meant, the word "substantial" should be used.

For instance, if you are getting at the paying of any tax on property earning an income then an income tax whose lowest rate shall be six or eight or ten per cent is in no sense unfair. And at the same time, if you leave the possibility of a graduated and progressive tax where your lowest rate must be six or eight per cent to be fair or to yield a fair return, then if it is graduated it may be so oppressive and unfair the major portion of a man's income may be taken away from him. That is the reason for that language. That point I should not have touched on, but for your question, as it will be elucidated by other members of this committee more competent than I. I do not believe it is necessary for me again to read section 1. I wish to say before going further, that what I may say applies of course to section 1. There is a uniformity of opinion, substantially, among the members of the committee as to the other sections of the report. I think what we are considering now is section 1, and that is the section to which I shall confine my remarks. Of necessity I am going to take considerable time, I am sorry for it, but I cannot help it. I have prepared a great mass of figures which I am not going to inflict on you, but which any of you can get if you want. Of course in making a speech of this kind most of you are going to forget practically all I say, but there are two or three things I want you to remember, and which I have a right to ask you to remember. It seems to me they are of extreme importance in our consideration of this revenue article. The first is this: This article, like the rest of our Constitution, must be founded on principle because, as was said by one of the best biographers of the only American who thoroughly understood public finance, Alexander Hamilton, "if principles be a part of our being, we shall find details like a man seeking needles with a lodestone."

Second, in considering this article always remember that appeals from any class for favor should receive scant attention. It makes no difference how large and influential that class may be. We are not here to favor any class of citizens in these important matters of taxation, but, gentlemen, do not forget that the complement of that is also true, that appeals to abstain from action because a benefit may accrue from our action to some class or interest, should be tried by the same test and set aside for the same reason, to-wit, the action of government, and our action here should be but to one end, the advantage of the whole State. That seems to me to be the second most important principle on which we should be guided in our deliberations.

And third, good laws are only a means to a good end, and all we can do here is to lay a foundation on which our legislature can erect a revenue system. We are not here to draw that revenue system; no Constitution that we can frame can be a panacea for the evils of taxation, but we can here lay a foundation on which the legislature may erect a substantial taxation system built on justice to all the people. Without strong and able administration the best laws but parody justice. I need not go beyond the present Constitution of the State of Illinois to prove that contention. For fifty years it has made the State of Illinois a school for perjury, with every taxpayer a pupil and the State itself the teacher, and the penalty for failure to learn the lesson confiscation of property. The present system is basically wrong; it is practically the system of 1818. It has lasted more than 100 years. I think that when it was first adopted in 1818 it was probably a good system. Why? It provided for one thing, to-wit, the alleged uniform general property tax, which, as I think you will concede, if you investigate, has never produced uniform results anywhere in the world that it has been tried; but in 1818 all property was the same, or practically the same, to-wit, real property, and the instruments with which that real property was put to use, the farm, cattle and tools.

Now, section 1 proposed by the majority of this committee provides for the classification of intangible property; that is justified in the minds of the members of the committee by various reasons. In my own mind by these: First, it is thoroughly wrong and vicious to tax all property at the same rate, particularly intangible property at the same rate as all forms of tangible property, and this is true for the following reasons. First, intangibles are essential to the successful handling of other property; the business men of the State of Illinois, and by business men I mean farmers, traders, merchants and manufacturers of all kinds, I use the term in the broadest possible sense, who handle tangible property are dependent upon intangible property for their success. It makes a fine stump speech to get up and say that every dollar invested in property shall pay the same rate of tax as every other dollar, but it is absolutely wrong. What do I mean by that? Simply this, that the men who do the business of the State of Illinois are men who borrow money. It is so rare that you find a successful handler of tangible property in any line who does not borrow money, that you may practically say, "There is no such person." They are all borrowers. Now, where can they borrow money? To the success of their enterprises it is essential that there be an enormous fund of intangible property from which these borrowings can be made. What is that fund? To a large extent it is the bank deposits, savings and other forms of bank deposits. We secure that fund and by means of bank credit we multiply the fund three or four or possibly ten times over, and to this of course we may add the accumulations of building and loan associations, of insurance companies and various other things of which any one of you can give instances.

Intangible property is incapable of earning a high rate of interest; for instance saving deposits draw three per cent. The men who borrow from those very deposits may by and through their borrowing earn on their tangible property 5, 10, 20, or 50 per cent. Is there any justice in taxing the one property at the same rate as the other? The uniform general property tax takes into account nothing but the value of the property, earning power is not considered except possibly as it aids in fixing the actual value. First, then, intangibles can earn but a small rate of interest, their income is low, therefore they should be taxed at a small rate. Second, they are essential to the life of the business citizens, and nothing must be done which would decrease the amount of those intangibles. Now suppose you get your uniform general property tax into effect and actually enforce it, as you have enforced the Federal income tax, what is going to result? Intangibles will vanish from the knowledge of the assessor. They will go out of the State or into tax exempt securities. And when that has happened, what is going to happen to the State of Illinois? I will tell you what is going to happen. The State of Illinois is going to be minus any revenue from this source. It is too easy to put it into tax exempt bonds, and the business man, the manufacturer, the farmer, the banker, the miner, the merchant will be unable to borrow and will be unable to do business, and when you have ruined them you have ruined the State of Illinois. I make no plea from the standpoint of the intangible property owner. I make it on behalf of the business of Illinois, because after all it is business which supports the State, and in making my plea on behalf of the business man, I am making it on behalf of every farmer and every wage earner in the State of Illinois. I want to say to you that when people tell you intangibles should be taxed at the same rate as other property, they are trying to drive intangibles out of Illinois, to deprive business of the very breath of life. They are proposing to skin the farmer and make him pay for his own skin.

In the third place there is no difference of opinion as to the value of intangibles, hence they are always assessed, if assessed honestly, at one hundred per cent of their value; this is true of no other property. There is a difference of opinion as to the value of tangible property. The assessors ask one hundred citizens as to the value of a certain piece of land and no two will agree. Now your assessor is human, whether he is local or State, and he is going to take the lowest value put on that land, and the result is the as-

sessed value of farm lands is about thirty per cent of the real value. Fifty-nine dollars per acre is the value of my own county of Knox, and the true value is not less than two hundred dollars. There is not a county in the State of Illinois whose farm land was assessed for the year 1919 upon which taxes were paid in this year 1920, there is not a county, I say, where land was assessed as high as one hundred dollars per acre, and in two or three counties the true average value is toward three hundred dollars per acre. The same thing is true of all kinds of tangible property. But a note of \$5,000, secured by a mortgage on 160 acres worth \$25,000, is worth \$5,000, and if the assessor goes and asks one hundred men they will agree on \$5,000, and if the assessor is an honest man he has no option, but to put it on the tax books at \$5,000 and the owner pays taxes on \$5,000, while the quarter section on which it is secured, which we have assumed to be worth \$25,000, is paying taxes on \$7,500 valuation, fifty per cent more than the \$5,000 mortgage, when it is worth five times as much money.

In the fourth place, I call your attention to one thing. Most of the intangible property in Illinois is owned in the cities where taxation is much higher than in the country districts, consequently if you put it on the tax roll at one hundred per cent of its value you doubly discriminate against it.

The present system of taxation I have tried to explain to you is in principle wrong, but in addition to that it is wrong in practice. What do we seek? A just uniformity. That is what we want to find, but under our present system we find, as Judge Lamar said, 142 U. S. 351, "A system which imposes the same tax upon every species of property, irrespective of its nature or condition or class, will be destructive of the principle of uniformity and equality in taxation and of a just adaptation of property's burdens." You cannot enforce the uniform general property tax. There is no way you can explain any widespread toleration towards violation of law except upon the theory that in the hearts of men there is a feeling that the law is wrong and that its enforcement would work an injustice. You cannot say that all the citizens of the State of Illinois are law-breakers. Burke said he knew of no way to indict a nation, and that is what you have got to do if you say the uniform general property tax is right, because you know, every man knows, that it has never been enforced, and if the great mass of the people had not been behind the violators it would have been enforced. So vicious and unjust is it, that it has made perjury common, cheating a venial sin, has discriminated against honesty and yet because of its inherent vice has made all these wrongs seem right to our citizens; thus it has paved the way to contempt for all law.

As I have said, one reason why they stand on different footing from other property, is that taken as a whole the intangibles are in the city and the tax rates are enormously in excess of the rates of the country; as an illustration of what I mean I secured the figures on taxes in different counties in Illinois and I want to call your attention to a few of them, not many of them. Take my own country for instance, in the City of Galesburg the average rate is .0506; the average rate in the other little city we have in the county is .0452, but the rate outside of Galesburg and Knoxville is .0286. Take Sangamon county, the average rate in Springfield is .064, and the average rate outside of Springfield is .031. Warren county, Monmouth, .06, average rate outside of Monmouth .022. St. Clair county, and because of the great number of other towns and cities which raised the average tax rates, the difference is not so marked. East St. Louis .076, outside of East St. Louis .067. In Adams county the average rate in Quincy was .045, and the average rate outside of Quincy was .026.

Mr. DUNLAP (Champaign). I wish to ask him the point he is making by reading the different tax rates?

Mr. GALE (Knox). I say that practically all, not all, but the overwhelming portion of intangibles is in the cities where the tax rates are high as compared with the country districts, so the discrepancy between the tax rate on intangibles and real estate is not in fact what it may seem to be.

Mr. DUNLAP (Champaign). Do they pay a higher state tax rate in the city than they do in the country?

Mr. GALE (Knox). They do not.

Mr. DUNLAP (Champaign). Why do they have to pay a higher rate, because they have special needs which the country does not have?

Mr. GALE (Knox). Yes, for sewers, water and all these things. There are plenty of good reasons for the different tax rates. I am not saying that there is not a good reason for it, but it exists.

Mr. KERRICK (McLean). Isn't it true that in a good many cities large owners of intangible properties have their residences outside of the taxing districts?

Mr. GALE (Knox). I don't know about that; I suppose it is true, but if you put the intangible property on the tax roll at one hundred per cent of its value, and in addition find most of it in the districts where the tax rate is high it seems to me you doubly discriminate against it. Again intangible property stands on an entirely different footing from other property because of the ease of creating credits, yet there is no more actual property in existence than before the credits were created. I don't know how many times intangible property in the State of Illinois is pyramided, but I do think it is a good many times. I think in the case of bank deposits, for instance, you can figure out practically how it has always several times multiplied the bank's property, the actual property. The bank loans it, and the lender again uses it to obtain credit. I don't know how many times the operation can extend but I know it can extend a number of times. I know when it is so extended there is still the same amount of property back of it, which property is still paying the tangible property tax. There has been a great deal said about double taxation; you never will get rid of double taxation while you keep the present system in the State of Illinois as laid down by our present Constitution. You don't have any more actual property when you create intangibles and really from the standpoint of the State intangibles are not property at all. The property back of the intangible, from the standpoint of the public of the State, is the property, the true property.

In ordinary taxation this is not realized but when income taxes are in question everyone seems to realize it. To illustrate what I mean, suppose A and B each own a quarter section of land in Illinois worth two hundred and fifty an acre or forty thousand dollars for the quarter; they each paid taxes on that forty thousand as they ought to pay. A sells out to B and B is not able to pay him, but he gives a mortgage on the entire half section of land for forty thousand dollars. Your eighty thousand dollars is then taxed to B, but if you are going to tax intangibles you have one hundred and twenty thousand dollars worth of property where you formerly had eighty, by the scratch of the pen. Truly there is only eighty thousand dollars worth of property in existence. When you come to the income tax, the Government recognizes the fact that intangibles are not property. Suppose each of these persons is renting the farm and getting \$15 an acre per year or \$2,400; then they are each taxed on a \$2,400 income. Now, after the sale, suppose B is paying A six per cent on his loan of forty thousand dollars; B rents the land and gets \$4,800 from his land and pays A \$2,400 interest. Is B taxed on the \$4,800? Not at all, he gets \$2,400 deduction that he has paid to A and the Government gets this tax from each and not on \$4,800 from B and \$2,400 from A.

I say to you the present system of Illinois is not only wrong theoretical-ly, is not only basically wrong, but practically wrong too. By the present system I mean attempting to tax, not taxing, because we do not reach them, but attempting to tax intangibles on the same basis as the other property. Everybody knows the tax law is outrageously violated; everybody knows there is practically no punishment for such violation of the law. Now, it is worth while to ask ourselves why that is, because when you find the constant trend of mankind overwhelmingly in one direction you can be very sure there is sound basic reasons for it. The reason is because deep in their

hearts the people know the system is wrong. The owners of tangible property see a great mass of intangible property escaping taxation, and they do not know how to figure to get even on that in any way except to have their own property undervalued, and the result is that the values of real property, which cannot escape detection in the State of Illinois, are utterly and absolutely absurd. For illustration I give you the figures of 1918 and 1919. Here are the assessed values of farm lands per acre in a number of counties in Illinois; the highest for 1919, that is the year in which the taxes are being paid now, in the State of Illinois, is in McLean county, the full value of each acre of assessed real estate is \$104.32 per acre. The lowest is Pope county, the full value of which is \$14.60 per acre. Knox county has an assessed value of \$59.04 an acre. I am giving the full assessed values and not the half values. In 1918 that full value was \$58.74 and there is hardly a farm in the county which could by any possibility be bought for two hundred dollars an acre. Champaign county, which was the highest in the State in 1918, was assessed at a value of \$99.60; 1919, \$99.70. McDonough county in 1918, full value, \$69.33; 1919, \$75.98 full value. The values are simply absurd, and they exist because land owners see no other way to protect themselves from what they feel is injustice.

I want to give you now some figures as to the question of revenue in the State of Illinois, in all instances giving you the full values of the property, and some of the percentages in 1874, 1918 and 1919. I have chosen those years because 1918 was the last year under the State Board of Equalization, and 1919 the first year under the Tax Commission. In that year the increase in total value was from \$7,878,253,166 to \$8,220,249,814; an increase of three hundred and forty-two million dollars in property, but the real estate increase of that amount was three hundred and twenty million dollars, to-wit: from \$5,370,000,000 to \$5,693,000,000; and the farm animals increased from \$278,000,000.00 to \$288,000,000.00, or ten million more; while the intangible property of the State of Illinois decreased from 1918 to 1919 thirty-four million dollars, to-wit: from \$678,000,000 to \$644,000,000. In other words, our State, according to the taxing fixtures, was actually growing poorer all of the time so far as the intangible property was concerned.

There was prepared and presented to our committee a most interesting set of figures from Madison county, and I present them because they so clearly show the foolishness of the present taxing system. Four townships with thirty-three per cent of total county population are assessed sixty-one per cent of the county total on financial items.

Now those figures do not mean much in themselves, but they show the utter impossibility of fair and uniform assessments under the sort of revenue system we now have. It is essential if a tax law is to be even reasonably satisfactory that it shall fulfill these three requirements. First, it must produce the amount of money necessary for the government. Second, it must be susceptible of administration with reasonable accuracy and at reasonable expense. Third, it must impose upon the tax payer no unreasonable burden.

These are the requirements laid down by former Commissioner Roper, but in addition there is a fourth requirement, as important as any of these three, a requirement so important that throughout the history of the world wherever it has been neglected, the result has been civil war and often revolution. I mean of course the requirement that the law shall be just and fair as to the individual citizens and classes of citizens. Now, the figures which I have given, it seems to me, conclusively show that the present law fails entirely as to the fourth requirement, and largely fails as to all the others. In other words, I think these figures prove that the tax system of the State of Illinois, at least so far as the cities are concerned, has substantially broken down. Various states, all of which have gone through our difficulties, have solved them in various ways. Our present system, to-wit: the uniform general property tax, so-called, was the original system in vogue in every state in the Union until comparatively recent times. In order to get away from the evil effects of this system the following states

have no constitutional requirements whatever as to taxes, in other words, the revenue article has been left out of their constitutions: Connecticut, Iowa, New York, Rhode Island and Vermont. The following states permit classification of intangible property: Maine and Nebraska; while seventeen states permit classification of all kinds of property, Arizona, Delaware, Colorado, Georgia, Idaho, Kentucky, Massachusetts, Maryland, Minnesota, Missouri, New Mexico, New Hampshire, North Dakota, Oklahoma, Oregon, Pennsylvania, and Virginia. In most of these states the actual result has been that intangibles have been classified and are paying taxes at a different rate from other property so that actually the results which these states have secured would be secured under the proposed article reported by the majority of the committee.

Mr. HULL (Cook). Did they ever have a revenue article and leave it out?

Mr. GALE (Knox). New York did; I don't think the others ever had them.

Mr. RINAKER (Macoupin). And what was the result in bringing intangible property on the tax books?

Mr. GALE (Knox). In what way?

Mr. RINAKER (Macoupin). In bringing intangible property on the statute.

Mr. GALE (Knox). I cannot give you the figure. The figures in Pennsylvania are exceedingly hard to obtain, because their taxing system is so diverse, they do not have one center to which you can go and get figures. The taxing boards in different counties in Pennsylvania are pretty near supreme; they seem to have got on their books a very enormous amount of intangibles, but their taxing rates against them is not so high.

Again, it is impossible to assess intangible property fairly on the same basis as other property, on account of the fact that there is always a large difference of opinion as to the value of other property, and the assessor, in the very nature of things, will always take the lowest opinion, while there is no difference of opinion as to the value of intangible property, and if assessed at all it must be assessed at one hundred per cent. It may be said that if we permit the classification of intangible property, it will be assessed at so low a rate as to operate unfairly against all other forms of property. The experience of other states has shown there is no danger whatever of any such result. In 1873 Pennsylvania permitted classification of property; Georgia in 1877, Colorado in 1876, and yet no such results have ever happened in either of these States, representing as they do, the East, the South and the West; the mining, the agricultural and the manufacturing, and I don't suppose you could get one vote in a hundred in either of those States in favor of going back to the old system.

It is often said that if all property were found and assessed the tax rate would be so low that no hardship would be worked on intangible property or any other property, and everybody would be willing to pay his just taxes. My own view is that this suggestion is "bosh." If there be twenty billions of property in Illinois it is an outside figure. Accurate figures in this matter of course are impossible to obtain, but I have gone to some trouble to get such figures as I may for the present time, and herewith give them to you.

There are 30,609,871 acres of improved land in Illinois, the full assessed value of which is \$1,816,393,868.

There are 3,872,239 acres of unimproved land, the full assessed value of which is \$154,205,704, an average of \$39.84.

All of the improvements on land are given the assessed full value of \$308,258,082.

This makes the total assessed full value for all land in the State, plus improvements thereon, of \$2,278,857,754, or an average per acre of all land plus improvement of \$66.10.

Now, I have tried to make some study of the assessed full value of the land in the two counties with which I am familiar, Knox and Warren. I

am satisfied, from taking the assessed value of lands where I know what the owners are asking for those lands, and what price they are offering, when offering them for sale, that the average full assessed value runs very close to thirty per cent of the true value of the lands. If that be true over the State of Illinois, and it is somewhere approximately true, the full value of the lands, plus the improvements in the State of Illinois, is seven billion dollars. The total assessed value of all town and city lots, plus improvements, is \$3,347,700,566.

I have been talking with the county clerks, particularly here in Springfield and at home, and I took the tax list at home and ran over some hundreds of lots in Galesburg with our county clerk, and of that list with which we were familiar, and knew the asked price of the property, about one hundred in number, the full assessed value was from eighty to one hundred and fifteen per cent of the asking price of those properties. In none of those cases less than eighty per cent, yes in one case seventy-two per cent of what we knew the owner was willing to take for the property; in two or three cases it went up to one hundred and fifteen per cent, 113, 114 and 115 of the asking price. I don't believe city lots are assessed much below 75 to 80 per cent of their value. In other words, your full value of city lots in the State of Illinois is approximately four billion dollars, which makes the total of all lands and lots eleven billion dollars.

The total capitalization of all corporations, concerning which the State Tax Commission reports, supposed to be all corporations in the State, is \$516,443,456. The assessed full value of these corporations is \$312,853,606. From this, however, must be deducted the property of these corporations, assessed by the local assessors, which amounts to \$242,797,036, leaving a total capital stock assessment, full value of \$70,560,570.

From investigations made in other years by the board of equalization, whose work has been followed by the tax commission, the probability is that the tax commission has assessed at a full 70 per cent of the actual value, and this would be indicated by the par value of the stock as above shown, so that it is fair to assume that the actual value of the corporations over and above the tangible assessments is one hundred billion dollars.

The full value of railroad property in the State of Illinois as determined by the tax commission is \$621,217,944, which is also supposed to be about 70 per cent of the actual value, which would make the actual value about \$900,000,000, and the assessed values of the Northwestern, Burlington and Santa Fe are either in excess or within three or four thousand dollars per mile of the actual capitalized value of those properties, and it is probably true that they have capitalized them for pretty well towards their real value, and possibly true that they have capitalized them in excess of their real value.

The full value of all personal property in the State, including the property of railroads and corporations locally assessed, is \$1,835,601,482; if this is also on a 70 per cent basis there is in the State of Illinois approximately \$2,700,000,000 of personal property.

We come now to the question of intangibles. The full value of intangibles in the State of Illinois is very largely a matter of guess, but we have some figures which may enable us to make an approximation. For instance, in the year 1919, the total bank capital surplus and undivided profits in the State of Illinois was \$364,982,545. The total bank deposits at the same time were \$2,013,016,853. Making a total for the banks of \$2,377,999,398. A portion of which, however, is included in the assessments above noted of land, lots, capital stock and personal property. There are no figures available showing the mortgage loans. However, a careful estimate for the year 1916 showed about \$1,000,000,000 in the County of Cook and about \$350,000,000 in other counties of the State.

Mr. KERRICK (McLean). In 1916?

Mr. GALE (Knox). Yes. If it is assumed that the other intangibles in the State are equal to the mortgage, and it is scarcely probable that they can be greater, their total value would be \$1,350,000,000.

The statements made give us at least some basis for figuring the total value of all property in the State of Illinois which would seem to be about nineteen billion dollars, of which at least a part must be considered a duplication.

You may be interested in knowing that the total tax levied in the State of Illinois for the year 1919 was \$149,997,044.42, of which \$72,011,979.72 was levied in the County of Cook; while for 1920, total tax levied is \$190,786,019.57, of which Cook County's levy is \$100,799,918, or considerably over fifty per cent of the total.

Mr. KERRICK (McLean). They gave me an estimate of 177 million, and afterwards that was reduced. Don't you include the figures on direct taxation?

Mr. GALE (Knox). I am merely quoting the figures from the Secretary's office. I cannot vouch for their correctness. The secretary's office undoubtedly thought they were correct. But, so far as the one hundred million dollars for Cook county is concerned, that was checked by Mr. O'Brien for Cook county, and is substantially correct.

Mr. KERRICK (McLean). I had the approximation made only on eighty counties down here, which if the rest had gone on the same rate would have been about 177 million. Later when the report was completed I was informed it was 175 million. I thought I was correct at the time, but those figures were sent in to me after the report was completed. That is not important, but I thought I would get that clear in the record.

Mr. STAHL (Stephenson). I think it would be well to make a statement, if you have those figures available, as to what percentage of that in Cook county was for State tax and what percentage outside of Cook county was for State tax. I have those figures here if you want them?

Mr. GALE (Knox). I had those figures here if I can locate them.

Mr. STAHL (Stephenson). I have those figures here, from the Auditor of Public Accounts, if you care to hear them, Mr. Gale.

Mr. GALE (Knox). I would like to have you read it.

Mr. STAHL (Stephenson). The following is a statement based on the figures furnished by the Auditor of Public Accounts, this was for the year 1918, the total State tax charged against Cook county for 1918 was \$9,825,000; the total State tax charged against all counties outside of Cook was \$11,048,000.

Mr. GALE (Knox). Have you got the other figures, too?

Mr. STAHL (Stephenson). No, sir, that is all I have.

Mr. GALE (Knox). Have you got the figures distributing that among the different taxes, for school taxes, etc.?

Mr. STAHL (Stephenson). No—yes, sir, I have.

Mr. GALE (Knox). I have those figures but unfortunately I cannot find them.

Mr. STAHL (Stephenson). The State tax compiled for all of the counties outside of Cook county.

Mr. GALE (Knox). I cannot locate the paper on which I had them; I had those taxes distributed but the total figures which I have given you are within a few thousand dollars of being correct. That is the tax as levied. There is a slight deduction of course when the collection comes in. I can give you the exact figures in 1920; the total tax levied was \$190,786,019.57, of which Cook county's levy was \$100,799,918.36, or considerably over fifty per cent, for all purposes, except of course the Federal income, which is not included.

Mr. HAMILL (Cook). Does that include the inheritance tax?

Mr. GALE (Knox). No it does not include the inheritance tax.

Mr. HAMILL (Cook). Automobile licenses?

Mr. GALE (Knox). No, sir.

Mr. HAMILL (Cook). Corporations?

Mr. GALE (Knox). Yes.

Mr. HAMILL (Cook). Insurance fees?

Mr. GALE (Knox). No.

Mr. KERRICK (McLean). Does not include anything but direct taxes?

Mr. GALE (Knox). Does not include anything but direct taxes. It may be said in view of this showing, as was argued by the Senator, a flat rate of one per cent for taxation purposes would yield all the revenue required for the State of Illinois. This might be true if the property here were all equally distributed in each taxing district, but by far the largest item in the property of Illinois is the item of lands which enters practically not at all into the assessed value of the cities, where the high taxing rates obtain. It is therefore evident that if all the property in the State of Illinois were discovered, a low rate would be sufficient to pay all the taxation in all the districts of Illinois outside of the cities, but that a much higher rate would of necessity obtain in the cities. It is therefore useless to hope that a discovery of all the property in the State of Illinois will reduce to any very low percentage the rate of tax which must be levied within our municipalities.

The city rate is usually nearly twice that of all the rest of any county, including the villages and small cities, but it is from five to twenty-five times the rate in the country districts. Remember, furthermore, that a tremendously large percentage of all this value is in land on the figures we have given, 35 per cent. This is mainly in the country districts. Assume that this is all that the country districts have, and that the cities of the State of Illinois have 13 billions of property from which to raise their taxes; their tax rate will not be less at the present time than 1-1.2 per cent. And if you have got to pay a tax rate of this kind what is going to become of your savings depositor? What is going to become of the mutual loan and building stock? What is going to happen to the interest rate on notes, and mortgages and bonds? Furthermore, this is as of the present time, whereas, experience of all past times shows that taxes uniformly tend to rise to the limit of permitted levies, and within a few years that rate, even if you have all of the property at full value on the tax roll, would be as high as it is at present. In other words, your savings deposits drawing three per cent would pay three per cent in taxes, and mortgages drawing five to seven per cent would be obliged to pay from three to five per cent in taxes. Inevitably this would drive away from the community all these forms of wealth, which it is greatly to the interest of the public to have in existence, for by and through these forms business exists, since without borrowing, business as now conducted could not exist. The result therefore of a complete listing of all property, including intangibles would within a very short time temporarily cripple and destroy the business of the State and depreciate the value of all tangible as well as intangible property, which would mean the ultimate bankruptcy of the State.

I am not going to say any more about the classification of intangibles. I now want to speak to you about the income tax features of the majority report, and I want you to notice carefully, if you will, what those features are.

Mr. GREEN (Champaign). Both speakers have referred to this vote in Illinois overwhelming against the classification proposition, so I would like to know just what that classification feature was, and how far it is involved in this?

Mr. GALE (Knox). If the delegate from Champaign will excuse me I won't go into that. One other member of the committee is prepared to say definitely on that.

Mr. GREEN (Champaign). Just so someone enlightens us on that point.

Mr. GALE (Knox). In the first place the majority report contemplates the possibility of two kinds of income tax. First, a tax may be levied on incomes, that is, the report contemplates the legislature may adopt the general ad valorem tax, as we have it now. It may classify tangibles and keep the ad valorem tax, and put a classification tax of some kind or other on intangibles. It may, if it chooses, having found out that classification accomplishes no good result, go back to the ad valorem tax, but

whether it goes back or not, or whether it never tries the classification plan it may also levy a tax upon incomes. It may levy an income tax at a flat uniform rate; or it may levy a tax of that kind to be graduated and progressive—we have provided if it be levied at a graduated and progressive rate the highest rate shall never exceed six times the lowest rate. Now what is our reason for that? We felt if there were to be good results from the income tax in the State of Illinois we must have some reference to the tax raised by the Federal Government. We felt that the tax rate in Illinois, if the income tax should be put into effect, should not be so high as to interfere with the government in its collection of income tax, because it seems to me exceedingly manifest that by our State system if the Federal Government, is going to have to rely upon an income tax at least for the lifetime of any member of this Convention, that should not be interfered with. Now, the total incomes in Illinois reported to the government for the year 1917, (that being taken as a fairly basic year, not so much in excess and not so much lower than might be assumed in normal times), it being the last year for which definite figures can be secured, were as follows: \$863,784,600 of incomes over and above two thousand dollars a year, for Illinois; incomes under two thousand dollars a year, \$256,176,000. Or a total personal income of \$1,119,960,600. The total corporate incomes for the same year were \$1,133,783,726. Making a total net income reported to the Government from the State of Illinois of \$2,253,000,000.

Now we felt that any flat rate with a low exemption, such as we have provided for here, would never be placed by the State of Illinois at a high enough figure to yield a large amount of revenue. One per cent would give twenty-two million, and two per cent forty-four million, and we felt therefore that there should be a possibility of a graduation permitted, no matter what form of taxation is put into effect, at least so long as there is no ad valorem tax levied whatever. A large portion of the taxation is going to be shifted, that is to say the burden of taxation is not going to fall on the man from whom the taxes are in the first place collected, the incidence of taxation will be elsewhere than upon the man who hands the money to the government. Now where does that incidence fall? It falls upon the ultimate consumer, so to speak; a portion is paid when a man buys a suit of clothes; when he buys his food, buys his home or pays rent. In other words, when a man is purchasing for himself and his family the necessities of life he is paying a tax. When a man's income is so small it is entirely used up in purchasing the essentials of life, that tax is an appreciable amount of his income, but when his income is so large it does not need to so be used, the tax which he pays in that way affects not one hundred per cent of his income, as in the other case, but a much smaller per cent, and, sometimes, in the case of large incomes, an infinitesimal per cent. Now, there would seem to be, therefore, a basic justification for giving to the man whose income is such it must all be spent for the necessities of life a lower rate of income tax than to him whose income is larger, or much larger than that.

Again a graduated and progressive tax is an answer to the people throughout the State of Illinois, and remember, if you please, that in the State of Illinois there are hundreds of anarchists and there are thousands of children of them, and there are thousands of Socialists and they have many more thousands of children growing up and trained in their ways, and the graduated and progressive tax is not only sound theoretically, but it is sound as a proposition of good governmental policy because it is an answer to people of that kind, who say that the burdens of government are made to fall unjustly and unequally upon the poor, who least can afford them. And at the other extreme you have people who would run away with the large incomes, and who say if they have a large income it should be confiscated to the State. Therefore, we felt a top limit should be placed, and we choose to say six times the least rate of taxation instead of six per cent flat, for those reasons.

Mr. FIFER (McLean). If the graduated income tax is fair, wouldn't it be equally as fair to have a graduated tax so far as farm lands are concerned; that is, the man who owns one hundred acres would pay less per acre than the man who owns one thousand acres. I am just asking for information and not to puzzle anyone.

Mr. GALE (Knox). I have seen the suggestion made, Governor, that that is fair. There are people who have advocated that that should be done. That actually was put into force as a matter of law in the State of Oklahoma, but it has never seemed to me that that was right. Now I may be entirely wrong; maybe it is right. On the other hand I may be wrong on the other theory and maybe the graduated and progressive income tax is wrong. I can only say in answer to your question what I think about it. It seems to me the farm land tax as proposed is a property tax and so far as you are going to keep a property tax on any class of property so far as that class is concerned it should be a uniform tax, and I shall speak of that later with reference to the substituted income tax provided for in this report. But when you come to an income tax, which is in addition to these other taxes, it is not at all a property tax, and it does seem to me that there is a justification which I have attempted in my poor way to state, a theoretical justification for it and a practical justification for it, which I was attempting to state when you interrupted me. Now, so far as the practical end of it is concerned—first, however, I want to speak about that limitation of six times. We felt that if any limitation was put on whatever it should be a multiple limitation for this reason, I think the war has shown us that we are none of us very wise when it comes to foreseeing what is going to happen in the future; we don't know what the situation in the State of Illinois is going to be. We had hoped that under a provision of this kind the income tax would start out at perhaps one-half of one per cent, in which event the highest rate would be three per cent. But we don't know but that at some time the State of Illinois would require, in time of a great emergency, an income tax which may start at two per cent which would make the highest rate twelve and we felt that an elasticity should be left to the legislature, which would not be tied to a definite highest rate or definite minimum that might be specified in the Constitution. Whether those reasons be good or bad, they are the reasons which impelled me to vote in the committee for that provision of the majority report.

Now we also provide for another kind of income tax, to-wit, an income tax which should not be a personal tax, in reality although in form it is, which can be levied in addition to other property tax—in effect it is a property tax, that is to say a substitution for a property tax, and we provide that the General Assembly might substitute a tax, on incomes, if it see fit so to do, derived from personal property whether it be tangible or intangible. Now for that tax we provide that that tax should be uniform and that it should be at a substantial rate, because we felt if it were to be in lieu of the property tax it would have to be at a substantial rate, either to yield the necessary revenue or make a fair tax. For instance a piece of property is valued at one thousand dollars; it brings in a return of seventy dollars a month; if the actual tax on that property was four per cent or five per cent or six per cent as in some of the cities in the State it would be forty, fifty or sixty dollars, and if the income was seventy dollars a month an income tax of seven per cent would yield \$56; also, therefore, it can be seen to be an effective tax it would have to be a fairly large tax? The question of policy enters also, because if you make that a progressive graduated tax, you would eventually confiscate a large portion of the income of our citizens, therefore it seems to us the substitute tax should be on uniform basis, differentiated from the uniform tax.

Mr. KERRICK (McLean). Suppose in the matter of the substitute income tax, which is to be substituted as provided in section one of the minority reports, as far as the tax on incomes is concerned, suppose a man had a million dollars' worth of property which he was holding, and receiv-

ing no income from, in the hope of a rise or something of that kind, and had a very small amount of property on which he derived an income; wouldn't his land escape taxation entirely under that substitute?

Mr. GALE (Knox). Under the majority report it would not, because that income tax cannot be substituted for the tax on land.

Mr. HULL (Cook). You have two provisions in the new article then for income tax, one in addition to the other, a substitution for a personal property tax?

Mr. GALE (Knox). We have a provision which permits the legislature to do that.

Mr. HULL (Cook). That is, you have two alternative income tax provisions?

Mr. GALE (Knox). Yes.

Mr. HULL (Cook). A graduated income tax provision, which is in addition to a tax upon intangible property?

Mr. GALE (Knox). Yes.

Mr. HULL (Cook). And the one chosen, the uniform income tax is in substitution for a tax on intangibles?

Mr. GALE (Knox). Yes, sir.

Mr. HAMILL (Cook). If the legislature should conclude that all taxes should be raised by incomes taxed, will it be a substitute tax or a straight income tax?

Mr. GALE (Knox). I think that would be a straight income tax.

Mr. FIFER (McLean). What would happen in case the taxpayer had personal property from which he was deriving income in other states? Would there be any way of substituting the one tax for the other in that instance?

Mr. GALE (Knox). Governor, I think under this provision here that you would not have any way of doing that. I think he would be unfortunate enough to have to pay both, because the State of Illinois in substituting its income tax for the tax on personal property could hardly affect property outside of the State. The State of Illinois would not, of course, tax that personal property under those circumstances, yet it might be taxed in the place of its existence.

Mr. FIFER (McLean). He would be paying double taxes, wouldn't he?

Mr. GALE (Knox). It would depend entirely on whether it was the sort of personal property whose situs follows the owner. If it was the sort of personal property whose situs follows the person I think he would not have to pay on it. Mr. Johnson says if you substitute that tax on this chattel property you do not levy any tax whatsoever on chattel property; that is true, but if his property was chattel property assessed in another state he would be paying tax in that state and also in the State of Illinois.

Mr. FIFER (McLean). In other words, double taxation?

Mr. GALE (Knox). Yes, I think it would be.

Mr. HULL (Cook). Don't this article permit of a provision for both a uniform income tax, in substitution for a personal property tax, and in addition thereto a graduated income tax?

Mr. GALE (Knox). On the portion of a man's income that did not come from his personal property; in that event it does.

Mr. HAMILL (Cook). In answer to my former question I understood you to say if the General Assembly should make no ad valorem tax, but undertook to raise all property tax by income tax it would be a substitute tax, and I wonder if you had in mind the part of the incomes which would be so taxed would be incomes not from property but from professional services, and as to that it would not be a substitute tax, would it?

Mr. GALE (Knox). No, sir, it would not.

Mr. HULL (Cook). On that it might be a graduated income tax?

Mr. GALE (Knox). On that it might be a graduated income tax.

Mr. HULL (Cook). Are there any other forms of return of income other than from personal property? And from personal services—yes, I suppose there would be from real estate?

Mr. GALE (Knox). Yes.

Mr. HULL (Cook). And that might be a graduated income tax?

Mr. GALE (Knox). Yes, but I call your attention to the provisions here that so far as the graduated income tax, which is not a substitute, is concerned, if the income arises from property, the tax paid on that property from which the income is derived shall be deducted from the income tax on the income therefrom. Now, I realize that there are a great many men in this Convention who believe in an income tax at a uniform rate, but who do not believe in an income tax at a graduated and progressive rate. I have given the only reason, the only theoretical reason, which appeals to me for a graduated income tax. It is well enough, of course, and a good thing for Constitution makers to get on a pedestal and say, "Well, we will pay no attention to what the people think." To require the legislature to levy a graduated and progressive income tax would be wrong, but to make it impossible for them to do so I think also is wrong. In that respect as in other respects the Constitution should leave discretion to the legislature and should rely upon the ability and sense of the legislature to pass a law which is just and fair. The great mass of the people of the State of Illinois are sound at heart, and I think mean to do the right thing and it seems to me, if there is anything whatever in our theory of democracy, that the legislature on matters of revenue and on matters of this kind in particular should be left to do what may be right.

Mr. HULL (Cook). I am still a little puzzled over the provision of this article with reference to a graduated and uniform income tax. I am wondering why that permission is given to levy a graduated income tax, and where such tax is in addition to the tax on personal property? Why, the same reason that permitted it there would not permit a graduated tax where the tax is in substitution of tax on personal property. What was the line of reasoning for providing where it is in substitution of the tax on personal property it should be a uniform tax?

Mr. GALE (Knox). I only want to reiterate what I said before, and I don't want to unduly extend what I have to say because I have already transgressed on the time of this Convention too far, but I can only reiterate that it seemed to the committee a substitute income tax was in a certain real and definite sense not an income tax, although a form of it, but a property tax, and I would like to leave the answer of that question to the member of the committee whose arguments induced the majority of the committee to put that in, which I think he will do in his speech on this proposal.

Now I want to go back for a moment to what I have to say about the progressive tax. There is a sound, scientific basis for graduated tax, which is this: All taxes other than income taxes are, to a large extent at least, shifted. That is to say the final burden of taxation does not rest upon the person who at the first must pay the tax, and thus it happens that the owner of small income mainly used or entirely used in providing his family with sustenance, actually pays a large proportion of tax in the higher prices which he pays for his food, his clothing, his rent and sustenance, generally; whereas, this sort of tax is paid by the person with a large income only upon that portion of his income which is used for sustenance. And it is doubtful, indeed, whether any possible graduation actually makes up for this difference; in other words, the owner of \$100,000 per year, paying a \$6,000 tax, does not pay any greater percentage of his income than the owner of a \$1,000 income who pays one per cent in tax, because to his one per cent is added enough by way of shifted taxes to bring his total tax to at least the six per cent of the wealthier man. He pays ten dollars at one per cent, but he certainly has paid in fifty dollars more through the added or shifted tax.

Now, it is sometimes urged that a uniform rate on income is precisely as fair as a uniform rate on property, levied in proportion to its value; but this entirely overlooks the great distinction between the two kinds of taxes, to-wit, the tax levied upon property is taken into consideration in determin-

ing its value, while the tax on incomes is a tax upon net, and to some extent at least the property tax may be shifted, while an income tax is practically never shifted at all. That is to say your property yields a certain net return, on the basis of which you figure its value after your tax is taken out, while the tax on the income is net, and to a large extent the property tax may be, and to some extent at least always is shifted, while an income tax, practically speaking, is never shifted at all. Now, I am aware that there is a theoretical shifting; I am aware when you tax a lawyer's income, for instance, it may be said as a theoretical proposition he charges bigger fees than if he had no tax to pay, but practically there is no shifting of that tax at all.

Mr. KERRICK (McLean). Your illustration of the man that pays upon one thousand dollars and the man that pays upon ten thousand dollars, isn't that answered in part by the fact the man whose income is only one thousand dollars, or even two thousand dollars, if a married man, would be exempt, while the man who pays above two thousand dollars is not exempt at all? Wasn't that intended to cover that situation? A man of modern income paying no tax at all, and a man of large income paying a tax on everything?

Mr. GALE (Knox). Yes, and it helps to do it, but I don't think it fully and entirely reaches the result, particularly in view of the extremely low exemptions here provided for; and note the exemptions provided for are not exemptions, they are permission to the legislature to make exemptions, making a limit to which they may go, if they see fit, but not requiring them to make any exemptions at all. And I call your attention to the fact under the wording of the majority report that if the head of the family receives two thousand dollars or more of income, he would have no exemptions at all, only one thousand dollars exemption if his income is less than two thousand dollars. If a single person receives one thousand dollars income, he would have no exemptions at all; and only an exemption of five hundred dollars if his total income was less than one thousand dollars. That is because when you levy an income tax of this sort it is like a great pyramid, and the lowest strata, which is by far the largest of all the stratas, is the small income, and we do not propose to allow the legislature to cut off that entire strata, but only to say that the one thousand dollars could be cut off where the income was less than two thousand dollars, so most of those people would be required to pay an income.

I now want to talk about the clause providing for the substitution of taxes. The committee's view was that in all probability the income tax would never be substituted for the tax on real property, but that it might be substituted for the tax on personal property. In order that you may have the idea of the possibilities along this line I call your attention to these figures. The total tax levied in the State of Illinois for the year 1919, to be collected in 1920, was \$190,786,019. The total personal property assessed in 1920 in Illinois was .2206 of the entire assessment. That is to say the total levy upon personal property on this basis was \$41,974,924.31. Now in the year 1917 the total incomes from the State of Illinois reported to the Federal Government were as follows: Individual incomes over \$863,784,600; individual incomes between one and two thousand, \$256,176,000, a total individual income of \$1,119,960,600. Assuming that the incomes of the State are still the same as in 1917, the flat rate of two per cent would yield \$45,074,886, while a flat rate of two per cent on the incomes over \$2,000 would yield \$39,951,366. If the Wisconsin plan of a graduated income tax of from one to six per cent, with no sur-tax be used, the State would receive from personal incomes over \$2,000, \$31,221,965; and from corporate incomes at an average rate same as the personal rate it would receive \$34,013,811, or a total of \$65,235,776.

I am giving you these figures to show to you that it would be an easy possibility for the State to substitute the income tax for the tax on personal property and receive therefrom more money than it now receives from the personal property tax, whether the income tax were levied on a uniform

flat rate basis or on a graduated basis similar to that of Wisconsin. Another member of the committee, Mr. Sutherland, will give you detailed figures on the income tax and the possibilities thereof.

The committee's view of that was this—no, I have no right to say that—my view of what I suppose the committee's view was this, that practically all the difficulty in the administration of any tax system arises from the personal tax feature, both tangible and intangible. Now it has seemed to me a scientific tax system might be summed up as a tax system which would raise all of the taxes required by an ad valorem tax upon real property, both lands and city lots and buildings, a substitute income tax for the tax on personal property, and possibly by an additional income tax on earnings. In other words, an ad valorem real estate and real property tax, and an income tax, and in order that the legislature might if it saw fit to put that into effect we put in this substitution clause.

No matter what else we do, we should not tie up the hands of the legislature so as to prevent an effective tax system for the State of Illinois. You cannot tie up the State of Illinois in cotton wool for the next one hundred years and make it unable to help its own. If the theory of democracy is worth anything, it is worth something only because the people can be trusted to elect a legislature to carry out their wishes and carry them out correctly.

I plead with you for power in the legislature to adopt such form of taxation as changing conditions and changing needs from decade to decade make wise. I do not see how as members of this Convention you dare in the light of history to do anything else. If you tie the legislature, as the present Constitution ties it, or as the minority would tie it, you have become recreant to the trust imposed in you by the people of the State of Illinois. Do you want proof of this? Surely the last eight years has given it to you. I believe the ablest body of men that ever got together in the world to frame a Constitutional document were the men who assembled in Philadelphia in 1787 and who gave to you our Federal Government, but with all their ability (and in taxing matters it is unquestionably true that Alexander Hamilton had more ability than all men now living in the world put together), with all the ability which they had they nevertheless failed when they limited the legislature in taxing matters as they did with reference to the income tax, and in order to get around that mistake which they made, the sixteenth amendment to the Constitution had to be adopted. Then came the war and the needs of the Government for money, and I think there is no man in the world who will not say that if the United States had not possessed the power to adopt that amendment, if that amendment had not been adopted the United States could not have prosecuted the war; could not have sustained her part in it and the world war would have been won by Germany.

Mr. FIFER (McLean). You have referred to Alexander Hamilton repeatedly.

Mr. GALE (Knox). Not repeatedly, twice.

Mr. FIFER (McLean). Don't you know as a matter of fact that Alexander Hamilton had very little to do with making the Federal Constitution; that they voted by states, there were three from the State of New York, Yancey, Yates and Hamilton; and the other two, when it came to cast the vote for the State became disgusted with what he said and voted the other way?

Mr. GALE (Knox). I thank the governor for reading me a lesson in history, which I should have remembered. I wish to say that if Alexander Hamilton had spent all of his time there, there would have been no need for the 16th amendment, and if in this Convention there was the brains of Alexander Hamilton, there would not be any limitations upon the legislature.

Mr. KERRICK (McLean). Isn't it true that our own Supreme Court held that could be done under our Constitution without amendment, and isn't it true that many lawyers believe under the Constitution of Illinois without amendment, an income tax would be allowed?

Mr. GALE (Knox). Yes, that is true.

Mr. JARMAN (Schuyler). He has not explained the first sentence of the first section?

Mr. GALE (Knox). I did not attempt to explain the first section on that point "the power of taxation shall never be surrendered, suspended or contracted away." That sentence is intended to prevent, (and possibly it is not needed), but it is intended to prevent such situations as the charter of the Northwestern University at the present time provides.

Mr. JARMAN (Schuyler). Would that sentence prevent the State from providing taxes should not be levied on its securities, or a city could so provide on its bonds?

Mr. GALE (Knox). I believe under the revenue article as we have it, here, a city cannot provide that a tax shall not be levied on its bonds. I don't think it would prevent the State from providing its bonds shall not be taxable.

Mr. JARMAN (Schuyler). The Constitution of the State of New York as passed in 1915, had this same provision. But they continued and said "as to the securities of the State or any civil division thereof" do you think after investigating this question whether or not that provision would be properly placed here, "except the securities of the State or any civil division thereof?"

Mr. GALE (Knox). No, I think it ought not to be here. And I believe if you want definitely to give the State power to do that, in place of being put in in this section of the article, such provision ought to be placed in section three, if the Convention deem it wise.

Mr. JARMAN (Schuyler). With reference to the word income, did the committee consider adding to the word income "gains and profits"?

Mr. GALE (Knox). Where we say tax may be levied also on incomes?

Mr. JARMAN (Schuyler). Yes.

Mr. GALE (Knox). I think not; and I think that was not called to the attention of the committee. It was considered by the committee whether or not the word "incomes" was not broad enough to cover everything and they believed it was.

Mr. JARMAN (Schuyler). The reason I asked the question, you remember the 16th amendment of the Federal Constitution, gives the Federal government the power to levy a tax on incomes; and congress passed a law levying a tax on incomes, gains and profits, and since that time the question has arisen in the courts whether or not income included gains and profits and there are several cases I understand in the Supreme Court contesting that now.

Mr. GALE (Knox). That has not been decided?

Mr. JARMAN (Schuyler). Except as to the stock dividend question and the Supreme Court has held that income tax cannot be levied on a stock dividend.

Mr. GALE (Knox). That was on different grounds, if I remember the decision. That was on the ground that stock dividend is no true dividend, it was merely putting into another form what the man already owned, as I understand the ground of the decision.

Mr. JARMAN (Schuyler). There are one or more decisions, pending in the Supreme Court where the Government insists that the word "income" includes gains and profits, synonymous with it. The other side contending it is not, and I remember one case going up from Chicago, where a corporation's assets and capital stock was one million dollars, and on account of the enhanced value of the assets they sold out for two million dollars, and the government claimed that one million dollars was such as to be subject to the income tax. The owners of the corporation claimed it was not, and that is now pending in the Supreme Court. Do you think under this provision the tax should be levied on gains and profits as well as income?

Mr. GALE (Knox). Do you think it is quite fair to ask me that question when the case is pending in the Supreme Court of the United States,

and when the chances are at least fifty-fifty I will answer it different from the Supreme Court and thereby show what a poor lawyer I am?

Mr. JARMAN (Schuyler). That is not the question; suppose the words gains and profits are not synonymous with income, do you think in this case a tax should be levied on gains and profits as well as on incomes?

Mr. GALE (Knox). No, sir, I don't. I wish to make a statement. I believe income directly considered is an annually recurring return from either efforts or property, and I do not believe that that enhancement in capital value which the Government does tax at the present time really and actually as a matter of fact ought to be taxed under the income tax, although I admit it is done under the wordings and rulings of the treasury department, and I further admit that gains and profits could be taxed under this wording.

Mr. JARMAN (Schuyler). Assuming that the Constitution puts a limitation on the legislature, what limitation does this article one put on the legislature excepting to classify real property.

Mr. GALE (Knox). It does not permit it to classify tangible personal property; it does not permit it to levy an income tax in excess of six times the lowest income tax rate indicated; it does not permit it to create a tax levy by valuation to be added to the income tax from the income derived from that same property.

Mr. JARMAN (Schuyler). You think that later statement is true in view of the provision there for income tax?

Mr. GALE (Knox). I do, yes sir.

Mr. JARMAN (Schuyler). Do you think in this situation if we use the word income at all, the Constitution should define what you mean by it, as distinguished from the profits on invested capital or labor?

Mr. GALE (Knox). No such proposal has come before the Convention, and when it comes I presume in common with the other members of the committee I will consider it and vote upon it one way or the other.

Mr. JARMAN (Schuyler). Did the committee have any opinion as to what the word income means as they use it in section 1 of this article?

Mr. GALE (Knox). The committee, I believe, felt that using the word income, in the light of the United States Federal income tax law it would be given by the courts the same meaning as the words in the sixteenth amendment of the United States Constitution.

Mr. JARMAN (Schuyler). As construed by the Treasury Department? To include gains and profits?

Mr. GALE (Knox). As finally determined by the courts.

Mr. JARMAN (Schuyler). In other words, they leave this open until they find out what the Federal law means?

Mr. GALE (Knox). I think some members of the committee were so inclined to do. I may say that some members of the committee were inclined to think we ought to definitely define what income means, but they failed so to do.

Mr. JARMAN (Schuyler). Isn't that your opinion, you have studied it carefully?

Mr. GALE (Knox). Yes, it is.

Mr. HULL (Cook). You think this does not exclude gains and profits?

Mr. GALE (Knox). I am inclined to think it does not; I am inclined to think the Constitution ought to define it.

CHAIRMAN WHITMAN. What is your pleasure, gentlemen? The question is on the substitution of section one of the minority report for section one of the majority report. Any further remarks?

Mr. KERRICK (McLean). I don't know whether it was understood by all or not, but I thought this debate was to be extended to give Judge Shuey an opportunity to present his minority report?

Mr. SHUEY (Coles). I have given the chairman the reason why I do not care to enter into the debate at this time, because of the pending motion which is to substitute the first section of the minority report for the

first section of the majority report, and I think it would be well to have that settled before we get into the discussion of the other minority report.

Mr. FIFER (McLean). The Honorable Chairman of this committee stated, as he took his seat, that he wished that Alexander Hamilton had remained in the Convention that drew the Federal Constitution. If he had, there would have been no limitations on taxation in that great instrument. It seemed to me at the time that was a strange declaration coming from a gentleman who brings into this body a report limiting the legislature of Illinois in its power to tax tangible property, both real and personal. If you will note the first part of the report, it imposes restrictions upon the legislature of Illinois insofar as the taxation of land and tangible personal property is concerned. When it gets down to intangible property the bridle is taken off and the General Assembly is permitted to do as it pleases.

Now, gentlemen, in my humble judgment had it not been for this taxing question no Constitutional Convention would have been assembled in Illinois at this time.

One gentleman living in the city by the lake, a clever gentleman, a gentleman of character and influence, in a communication to one of the great dailies of that city, within the past six months claimed the credit of this Convention. His claim was acceded to by the paper. As I remember it in the paper in which the communication appeared there had been a persistent effort running back for a period of twenty years to change the taxing system of this great State, and practically speaking that agitation has come from a single source and it finally culminated in what is known as the tax amendment of 1916.

The State of Illinois, before that amendment was submitted to a vote of the people was fairly flooded with wagonloads of literature scattered all over the State of Illinois, urging the adoption of that amendment. In rural communities a certain kind of literature was distributed in which it was claimed the taxes on farm lands were to be reduced. In manufacturing communities it was urged that it would be to the betterment of such communities, and in banking communities quite a different story was told.

Now, when the vote was taken and the purpose of that amendment was disclosed which was to classify property, it failed to pass, and the gentleman who inaugurated the movement, who backed it financially, claimed it did pass and it is a matter of history that on the day of the election checks were sent to the Democratic and Republican committees in every voting precinct in Illinois notifying them to see that the vote was gotten out. It was cleverly stated, and on a fair calculation no less than \$27,000 was advanced on that day, and yet with all these efforts the people of Illinois hesitated and refused to grant to the legislature of our State the right to classify property.

These gentlemen said it did pass then the canvassing board decided in their favor. Mr. Lucey, the law officer of the State, had told them it did not pass. He gave them an opinion to the effect that it had not passed and yet in the face of that the canvassing board of your State decided that it did pass.

I, at that time, was just recovering from a serious illness, but I was strong enough to come to Springfield and challenge that decision in the Circuit Court of Sangamon County and defeat it. It was carried to the Supreme Court of the State and the decision of the lower court was sustained.

I mention that only to show the very persistent effort that has been made to foist upon the people of Illinois the doctrine of the classification of property.

I am not attacking the Civics League; a good many of them are my personal friends, they are men of character and of influence, and I shall feel aggrieved if any member of this Convention construes my remarks as an attack on the Civic League of Chicago. They are looking out for their own interests, wealthy men, and such men are always able to take care of their own interests in any field.

This literature that was sent out under the auspices of the Civic League had much to say about a poor widow woman and a poor man, and wanted to make the rich men pay taxes in proportion to the poor men. Why, to read that literature you would suppose that such league was a sort of an eleemosynary institution, whose chief business it was to take care of the poor living between Chicago and Cairo.

Now there is a natural inquiry. What is the purpose, what good do you suppose will flow from this principle which is advocated here of classification of property? Why is it insisted it should be incorporated into the fundamental law of our State? The legislature is not permitted by the proposal to classify tangible property, personal property; it is not permitted to classify real estate; it is only permitted to classify intangible personal property. Now, will it make that species of property more valuable after it is classified than before, or will it change its form? What then is the purpose of the classification? You gather from the splendid speech of the able and eloquent chairman of the committee that it is for one purpose and for one purpose only, and that is to permit the General Assembly of Illinois to classify intangible personal property and to place a different valuation upon that property than it does upon other property. It has no other purpose. It is a departure from the principle of taxation that has prevailed in Illinois from the time the State was admitted into the union down to the present; a principle that prevails in nearly all of the great States of the American Union. They say that it is inferred, and the inference, unmistakable inference, is that they propose, when they get it classified, to tax it at a less rate than we do other classes of property, and the chairman makes a long argument to show that such ought to be done.

Now, my friend, the chairman talks about dollars, and millions of them went dancing through his speech, and tells us of the hundreds of millions that were raised by one kind of property, and the millions of dollars raised by another class of property, but he might have come to the point at once and told us the significant fact, the big fact that rises out and above the whole situation, and that is that real estate in Illinois is paying seventy-eight and a fraction per cent of all the taxes that are paid in this State. He could have told us that intangible personal property is paying twenty-two per cent, making something over ninety per cent, and that the intangible property, representing one-half of the wealth of our State, is only paying about seven per cent. Those are the big facts, and yet he went through lists of figures showing wherein—or attempt to show—that the farm lands were not paying their just proportion, and yet the crowning fact is that they are paying nearly eighty per cent—nearly seventy per cent, according to his own statement, from the figures which he had in his hands.

Now, I have seen figures from statisticians in Chicago, notably from the real estate board of that city, that the real estate tax in Illinois is eighty per cent.

Now, the theory of classification of personal property, and the big argument that is made in its favor is that there should be reduced taxation on such property, but how will you classify it? In what way will that enable the tax assessors to make a discovery of that property? Only in one way, gentlemen, and that is that they will permit the General Assembly to make the tax on that kind of property so low that the owners of that species of property can have no objection in hiding it away. Now is there any other way? Do they propose to appoint skillful persons to make the discovery? Do they prescribe any iron-clad oath to be submitted and subscribed to by the tax assessor? Not at all. Then let the gentlemen answer how is the tax assessor to make a discovery of this property? They tell the farmer that by classifying the property and wiping out these restrictions the legislature will find some means to reduce the taxes, but that means is simply to reduce the value of the property or the tax on it so low that there will be no object in covering it up.

Now, I have been reluctant to speak on this subject, but after the effort that is being made to place the tax burdens of Illinois on land, I feel con-

strained to say that there is a movement to the same end, having a different purpose and different objects, in other regards but as to the matter of placing the tax upon the real estate they have a single object. The Socialist, the single taxer, they believe that this is a step towards their object, and the first step toward single tax. The other gentlemen composing the Civic League, or gentlemen who are sponsoring this movement, care nothing about that. What they want is a law which places a low assessment on intangible property, and yet we read in the newspapers of the country that the drift in this country is from the farm to the city and every effort is being made by economists to provide some means by law or otherwise to start that movement back from the city to our farms.

Now, the last gentleman said that this is unfair, to tax a promissory note on the same basis that you would tax a horse or personal and tangible property. Let's see about that. The scientists tell us that if you can explain one grain of sand, you can explain these flaming suns that you see over your head of a clear night, and so you can, but let us take the concrete case that is constantly called before us, the poor widow and the poor man. Let us take two poor widow women, they live in the same town, side by side; one owns a little home worth twenty-five hundred dollars, and that is all she does own, and the other widow woman is living by her side and all she has is twenty-five hundred dollars invested in a note and a mortgage. Now, here is the whole question. If you decide that the woman who has the twenty-five hundred dollars invested in note secured by a mortgage should pay as much tax as the woman who owns the shingles over her head, then you solve the whole question.

Now, will any man say that the one woman should not pay the same tax as the other? If you do, then why should not the man who owns millions of dollars of this tangible property pay some other man's part?

The truth is that the easy tax paying wealth of this country and of the world is in intangible property. You take men who have money invested and loaned in real estate, especially foreign land, and they are paying but very little. Many farmers were inclined to vote for the tax amendment of 1908, but they had their eyes open, and have them open now and almost without exception they are opposed to this movement. You heard them here in open session, and I went before this committee and I heard them there. I heard them testify here and gave figures to show that the real estate of Illinois is paying eighty per cent of the tax burdens of the State, yet gentlemen will come here, and while this intangible property is only paying seven per cent, they will come here and in an argument of several hours try to convince this body that real estate is escaping its just proportion of taxes.

There is no property in Illinois that pays more tax in proportion to its income than the farmlands of Illinois, and Adam Smith, in his "Wealth of Nations," tells you that the ability to pay should be considered in levying taxes.

You have heard by farmers who come and said that farm land was not yielding two per cent on the investment. At this time I doubt if any farmer in McLean county or Illinois who is paying rent in proportion to the value of the lands, who will not soon be in some court that will administer on his estate as a bankrupt. Now, these are the facts. It should be the policy of the people of Illinois to foster our industrial population. It should be the policy of the people of this State to turn this tide back from the city to the country, but you will never do it, my friends, by increasing the burdens of the farmer.

As I view this situation the one bright spot on our political horizon today is our rural population. Now, think of it, a body of men here composed of one hundred and two members coming in here and admit that the intangible property in the State is only paying seven per cent and in the same breath admit that the real estate is paying nearly seventy per cent, and the other tangible property is paying twenty-two per cent, yet it is proposed to increase the tax on farm lands. Let us remember that—

"Ill fares the land to hastening ills a prey
Where wealth accumulates and men decay;
Princes and Lords may flourish or may fade
A breath can make them as a breath has made them,
But a bold peasantry, our country's pride,
When once destroyed can never be supplied."

Mr. JOHNSON (Bureau). Mr. Chairman and gentlemen of the Convention, I shall keep you only a short time and I wish while on my feet to congratulate not only my friend from Knox county but my two friends from McLean county for their splendid presentation of the question from their respective standpoints. I submit that no listener to those splendid efforts, to the splendid effort of the Governor from McLean county could answer this question which is now before this committee for a decision from what he said.

The question is, shall the substitute minority report be submitted for the majority report and his effort was wholly directed against the majority report, and as I understand it he never said a word in support of the minority report which is intended or thought to be submitted on this motion, so what I shall say will be, I hope, confined to the real question before the committee at this hour.

Let me say now as I understand that perhaps the paramount question that may be necessary for this Convention is the very question which we are now considering before the Committee of the Whole, namely, the Revenue question. In talking to several of the members of the General Assembly and particularly of the Senate, they gave me to understand that the revenue question was the real question that made the Convention necessary, so that we are now to consider the question which was uppermost in the minds of the General Assembly, namely, the necessity for a change in the Constitution of 1870 as to the revenue article, as to Section one of the Revenue article.

The mere citation by his honor, Governor Fifer, of the statistics show that intangible property in Illinois has been hiding to the extent of ninety-three per cent from the assessor, and that gives us the real reason why the Constitution of 1870 and particularly section one needs some doctoring, and we are asking the question why the changes are needed and the answer is quite clear.

If intangible property to the amount of one thousand dollars is lying idle in your hands or in your bank on deposit drawing no income, or drawing three per cent income in a savings institution or perhaps a little greater rate than that, uninvested otherwise, under the present Constitution all this idle money, under the present system of taxation, must be listed at one thousand dollars and no less, for taxation, and that intangible property of yours which is well secured and worth one hundred cents on the dollar must be listed at par, one thousand dollars, and under the present constitutional provisions, and there is not a gentleman on this floor it seems to me who denies the fact that a thousand dollars at par placed upon the assessor's books cannot live long, and submit to the rate of taxation by valuation. Now, you have the reason why men seem to be apparently dishonest, I say apparently—

Mr. FIFER (McLean). May I ask the gentleman a question?

Mr. JOHNSON (Bureau). Yes.

Mr. FIFER (McLean). You seem to want to establish a rate on that so as to make a discovery of that intangible property, which would reduce it to such a low point the man would have no object in hiding it.

Mr. JOHNSON (Bureau). I am not reducing it, the General Assembly of Illinois who represent a republican form of government, that you may present the subject in a way so that intangible property shall bear its just proportion of taxation.

Mr. FIFER (McLean). Doubtless you have something in your mind and those who have been acting with you on the committee, as to what

the General Assembly would do, what they could do, or what they ought to do. What is your idea about it?

Mr. JOHNSON (Bureau). I submit that is not a proper question to a member of the Constitutional Convention. If I were representing my district in the legislature, in either branch, sir, if I would perhaps be in a position to give due consideration to that subject I might perhaps give you an appropriate answer.

Mr. FIFER (McLean). Suppose this prevails and it becomes a part of the fundamental law, and you are elected as a member of the next General Assembly, have you any idea or plan mapped out by which you could provide for the discovery of this intangible property?

Mr. JOHNSON (Bureau). Oh, I understand from those who are behind me on the minority report—and the proof of that understanding comes from the lips of the gentleman from McLean county—the real purpose of the aforesaid income tax is to discover intangible property, and since you are driving me to answer that question let us look at it in this way, if you need a discovery and if you want a discovery, I simply point you to the Federal officers, to the Federal income tax department at Washington, where a full report and a scheduled report will be found and furnished to the income tax department of Illinois and from that you will make your discovery.

Mr. FIFER (McLean). But this is a double barreled gun, you report here that you can have an income tax, you can assess it at any rate which the General Assembly see fit to place on it.

Mr. JOHNSON (Bureau). No.

Mr. FIFER (McLean). You pointed out one remedy, in case you have a remedy, but now take the other one where they do not see fit to provide for an income tax on intangible property but they assess it, if they do assess it how are they going to make a discovery?

Mr. JOHNSON (Bureau). You say that this is a double barreled gun.

Mr. FIFER (McLean). Yes.

Mr. JOHNSON (Bureau). I would not be the representative of the people or a man to use only one weapon and be bound by that, as they are by the present Constitution on revenue, and we are seeking, Governor, to give the General Assembly not only a double barreled remedy, but also at least two or three opportunities to do something that it may honorably, equitably and justly do to all alike.

Mr. FIFER (McLean). You have not given a reason for providing for an income tax on intangible property. You have referred to the Federal Government. That is a very fair answer. Now give an answer why you want to place the authority in the hands of the legislature to assess intangible property, one mill on the dollar which they can, and—

Mr. JOHNSON (Bureau). Now the answer to that, I think, stands out clearly on the report of the majority of the committee, namely, under that the General Assembly shall have the power to levy a tax upon the intangible things and levy also an income tax thereon, and the two values shall be the equivalent—

Mr. FIFER (McLean). Now—

Mr. JOHNSON (Bureau). Please listen to me, I have not finished, and the two values shall be the equivalent of the tax on real estate and be taxed on the income therefrom.

Mr. FIFER (McLean). You do not say in your proposition the General Assembly shall levy an income tax on intangible property.

Mr. JOHNSON (Bureau). No, sir.

Mr. FIFER (McLean). Neither do you say that they shall levy an ad valorem tax on intangible property.

Mr. JOHNSON (Bureau). The reason we do not say that is because we know this Constitutional Convention may use all of the "shalls" from the beginning to the ending of time with reference to the General Assembly, and if they see fit to follow the mandate they may, but they may also entirely disregard every one of them just precisely as they have done in the past with reference to the reapportioning of the State of Illinois.

Mr. FIFER (McLean). Why did you use the word "shall" in relation to the taxation of tangible properties, and when you get down to intangibles you say "may" and create a double barreled gun?

Mr. JOHNSON (Bureau). The word "shall" is used in a little different place there, it says the General Assembly shall provide needful revenue, and we do not want to put it on—that is a foolish question, anyway, it limits it. Mr. Chairman and gentlemen, since the question is no longer important, in my mind, let me say this about it, we are talking about a subject now that really need not have been mentioned in this Convention, for as I understand it in the Constitution you divide the operations of the State into three departments and say that powers of government of Illinois will be divided into three departments, namely, the legislative, executive and judicial, and if you put a period there, as we have already done, then, sir, we have surrendered all the sovereign power of the people of Illinois on the question of taxation, to the General Assembly. In some States it has been properly shown here by my friend from Knox county, they did that and are resting on it. They say, "We stand for this, we will elect our representatives from our respective districts, men in whom we have abiding faith and confidence, in their integrity and justice; we will elect them and send them down to Springfield and we will commit to them as we have already committed by the Constitution all our sovereign powers to levy taxes and we will leave it to you gentlemen, and if you come home and do not do it on the square, do not do the square thing on that subject, by the eternal you stay at home forever."

Mr. FIFER (McLean). Now if you are willing to trust to the legislature in regard to the intangible property, why won't you abide by their intelligence and their efforts in the same degree when it comes to tangible property?

Mr. JOHNSON (Bureau). I suspect I would if it had not been for the great hue and cry you raised of the danger that would come in there. The proposal I filed here in the first instance gave to the General Assembly the sovereign power to classify all property in Illinois, and it was you, sir, that raised the question on this floor that we were in danger of going to the single tax proposition. There is no more danger of it, sir, than there is of any other State, because an appeal has been made to all other States of the Nation and yet no class of men has thought it worthy of consideration to adopt it.

Let me say this, I don't know whether—I don't know what I was talking about when I was interrupted, but the General Assembly under that power would have full authority on subjects of revenue, but it is thought the better part of wisdom that we put a check here and there upon them. We put no check upon our judiciary, and we put no check on the executive of Illinois other than to require him to raise his hand and say, "By the Almighty I will take care that the laws of Illinois are enforced." That is the only check I know of, that incorporated within his oath. It is all right, perhaps, to put our checks here and there on the General Assembly, but coming back to the question, the real reason why we convened here was because the revenue department of Illinois had seemingly done its best to ferret out the intangibles of Illinois, but it ignominiously had failed to do it, and they began to look around and say, "What is the reason?" As has been voiced here before, there is really a reason, that is the same high degree of justification that the man who lives in the city, where the rate of taxation is from five to eight dollars a hundred, there is the same reason why the holder of intangible property shall not be quite so willing, so ready to pull it all out and throw it on the table before the assessor because he knows that means confiscation of the income therefrom. That is the truth about it. Now, we must give the General Assembly—I think we must give the General Assembly some power and some right to relieve that situation in some way, and they recognize the fact that they have done the best they could to give relief.

I hold this up to you, as delegates in the Convention, you were called here for the purpose of changing the Revenue Article and I ask that you read that and say what change has been made. (Holding paper up.) That is what I call a stand-pat attitude, a standing by the old, and although we know that is unworkable, and experienced in its thought it not only would be unworkable but it would be unjust if it could be made workable with reference to intangible property when listed at its par value.

Now, what is the relief, I am asking you? Are you going to substitute that (indicating) for the majority report which has not yet been argued out in full, when it furnishes absolutely no other relief than that the General Assembly may levy a flat income tax for the benefit of ferreting it out? By reference to the income department of the Federal Government, whose officers said to the several departments of the State that they may have access to what they had, they can't do that. Now, that is the only purpose according to the statement of the gentlemen, the committee who introduced had, and that is to levy an infinitesimally small income tax in order to get a tax payer on record as to just how much he has and after you get him on record as to what he has concurrently you put on this ad valorem tax. Is that a relief?

In other words we were called for for the purpose of giving relief under that Constitution, and in place of giving the relief the minority report adds to the burden of taxation because there is a tax added on intangible property and concurrently with that tax there must be levied an ad valorem tax, in other words, according to the value of the intangible property at that time.

Now, where is the relief, men? Have we been here this long while simply for the purpose of finding a ferret to catch a rabbit? Well, it is a pretty expensive rabbit, if we have been here this long, for six months in the revenue room, for the purpose of finding out some way by which we might give the General Assembly some latitude in the matter.

To answer your question again, sir, I said gladly I would vote for a proposal which gave the farmer the same privilege of having his land classified as given here in this. I would do that if any of you presented it. Do that and see if I would not vote for it with you.

We had to do something to relieve the situation, and my notion is, although I have signed that report, my motion is it should read this way, "But the General Assembly may levy a uniform tax on all intangible property in the State of Illinois" and put a period there. Then provide for an income tax and provide for the substitution tax, and the day would soon come in my judgment when intangibles would pay an income tax on all intangibles, and that would be seventy-five per cent more than we receive from intangibles under the present system of taxation. Now, are we to adopt the minority report here as a substitute for the majority, thus cutting out all relief?

Will you gentlemen stand on the floor and point out how you have changed the old Constitution to give any relief other than that they shall levy? We go a long way with the General Assembly with that, if it is made up as it has been made up heretofore. Other than that they shall levy an income tax. That is simply an announcement. Right now if we adopt it it is an announcement, right now hereafter and forever as long as the Constitution can live you hold yourself out as saying on intangible property, on the first day of April of each year they will come around and levy a tax on your intangible property according to its face value or par value, and then at the same time concurrently therewith, because that is made mandatory on me, concurrently therewith I am going to levy an income tax.

Will that go very far with the voice of reason? Will that go very far, men? Is that a relief? Is that such a substitute that you are going to adopt it here on this motion?

I am not discussing the phases of the majority report here because I do not think of it as being necessary at this time. The question is on this

motion and when this minority report is offered here as a substitute you are offering nothing but the old Constitution.

Open the book and offer that, why don't you, and say "here is what I have." You lawyers in this Convention may differ with me, but I think under the present law, under section two of the present Revenue Act in the Constitution, the General Assembly has the power to levy an income tax; that is my judgment on it. They pass the buck, now, that is the truth of the whole business, because it plainly says under that section, "and the enumeration of the following object and subject shall not deter the General Assembly from levying a tax on any object or subject as it may deem fit, consistent with the principles of this Constitution." I am not quoting it literally, but the thought of it, but let that be as it may I am mentioning that simply as illustration, and sticking by my text simply that our eyes may be open as to the future for this substitute which is offered here, and to my mind what will be thought of it by the people, a laughing stock for one hundred and two men to come down here and spend a whole year and do nothing but quote "literally" the old constitutional provisions, and say concurrently therewith they shall levy an income tax just as low as they please and be careful, gentlemen, when you levy the tax, when you levy the one-fourth of a mill tax, be careful you do not tax the big interests any more than you do one of the governor's widows in his example. That is the question we must determine.

Mr. DAVIS (Cook). A frequent recurrence to the principles of Constitution making is of importance to preserve our understanding, and ability to frame a Constitution.

The question pending before the house is on the motion of the substitute minority report for the majority report as applicable to the first section of the article. In framing an article on revenue, as in framing all the other articles, I take it the thing with which we are concerned is the extent of the limitation we shall place on the power of the legislature in enacting laws pursuant to that article. Senator Kerrick does not seriously contend that his proposal, included in this minority report, deals with the matter of limitation of the powers of the legislature in any way different from the limitations which we now find in the Constitution of 1870.

The majority report has recognized the principle, and has yielded to the voices heard in our own committee and in the Committee of the Whole to the necessity of placing certain limitations and then making certain exceptions. Generally speaking, section one has in contemplation one system or another which the legislature may put into execution in raising revenue for the State.

My appeal to the members of the committee at this time is to consider carefully and seriously their action in voting on the motion to substitute and to be careful that we do not throw to the four winds the work not only of the Committee on Revenue, but the Committee of the Whole through all of its hearings. If the report of the committee requires certain changes, let us make them, let us find out what changes are wanted. Certainly it would not in my judgment be anything but recklessness to substitute the minority report, which means wiping out all of the work which has been done, and saying that we stand by the Constitution of 1870. I think the people will not be satisfied unless we listen to arguments dealing with the question of what changes if any we do want to make, and I do hope the motion of the gentleman will not prevail.

Mr. CORCORAN (Cook). I do now move that the committee rise and report progress and ask leave to sit again.

(Motion lost.)

Mr. HAMILL (Cook). I listened with interest to the speaking that we have had today and I am frank to say that much that has been said in favor of the pending motion has made an appeal to me. The gist of the argument made by the learned gentleman of McLean county in favor of the motion to substitute, it seems to me, is opposition to classification,

I am not prepared to vote for the motion, even though I were persuaded that classification is unwise. My mind on the question of classification is open. I am not prepared, as I said, to vote for the substitution even if I were persuaded that classification is unwise because it is quite simple to change the minority report so as to eliminate the classification provision. If the commission shall be persuaded that it is unwise to permit the General Assembly to make a classification of intangible, that can be accomplished by striking out of the majority report, "But the General Assembly shall have the power to tax money, notes, etc.," down to the next period.

I hope those of you who are doubtful about classifying or permitting the General Assembly to classify will not by reason of that doubt feel impelled to vote for the substitution.

Mr. KERRICK (McLean). Inasmuch, though, as it is now very nearly time, and it is a red letter day in the history of this Convention in the matter of progress made, and it has been done with very considerable labor, and the gentlemen who have spoken on both sides in the matter on issue have done remarkably well, I myself feel as if I had worked a full labor union day, at least, and in closing this debate it seems to me its merits require a careful consideration, and the responsibility is on me to take notice, and, if I believe it should be done, to comment on the remarks made by four or five very able and interesting gentlemen, of whose remarks I have taken notes covering two or three pages of short notes, and considering the importance of what is imposed on me, I should give further consideration to it than the immediate skimming over now that the matter would require. The day being substantially at an end, I would regard it as a very great favor and I think it would do no one any harm if this debate may be closed for the day and take it up the first thing in the morning after the ordinary matters are disposed of. I am quite certain, very certain, that in doing so I will occupy much less of the time of this committee than if I should attempt at random to travel through the numerous notations I have made. It is quite possible, when alone, and I look them over, I shall not deem it necessary to touch on one-fifth or one-tenth of them. At this time I cannot determine that and will take them up seriatum, and will inflict upon you a whole lot of matters that I really should not. I hope the gentlemen will favor me.

Mr. SUTHERLAND (Cook). I sincerely hope that the program will not be followed. We have today an unusually fine attendance of the delegates of this Convention, we have before us a matter of principle of importance on our program, and we are at a late stage in our deliberations and I think we are all fresh enough to go if necessary up to midnight. Certainly you will not get the delegates to work here who are pressed for time, but to follow our deliberations to a settled conclusion, while we are at the white heat of discussion and have the points fully before us I think is the best way. Then it is time to take action and not wait until only a few, possibly, are here and they are discouraged as to the lack of numbers. I think that we should go through day by day and continue right along.

Mr. KERRICK (McLean). I move that we adjourn until eight o'clock. (Motion lost.)

Mr. LINDLY (Bond). I move we rise and report progress and ask leave to sit a gain.

(Adopted.)

President Woodward resumed the chair.

Mr. WHITMAN (Boone). The Committee of the Whole having under consideration the report of the Committee on Revenue and Finance reports progress and asks leave to sit again.

(Adopted.)

Mr. TRAUTMANN (St. Clair). Mr. President, I move that we now adjourn until nine o'clock tomorrow morning.

(Adopted.)

Adjournment to nine o'clock a. m., Wednesday, November 10, A. D. 1920.

WEDNESDAY, NOVEMBER 10, 1920.**9:00 o'Clock A. M.**

The Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Monday, November 8th, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Monday, November 8th, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. CARLSTROM (Mercer). Before we go to the general order of the day, I want to call the attention of the members of this Convention to the nature of the day tomorrow, and ask that appropriate recognition in some form or other be given to Armistice Day by this body. I think that we ought to do that, gentlemen. I think it is of sufficient importance. I think that the memories that are close to us warrant us in taking some form of action. This deliberative assembly cannot afford to ignore the day. I don't know whether the Rules Committee have provided for it; but I want to ask you, gentlemen, that we provide for some form of recognition of Armistice Day tomorrow.

THE PRESIDENT. The question that now comes before us for consideration is the report of the Committee on Revenue Taxation. Mr. Whitman (Boone) will kindly take the chair, as I would like to discuss this question.

Whereupon Mr. Whitman (Boone) took the chair as President Pro Tem.

THE PRESIDENT PRO TEM. We will now proceed.

Mr. CORCORAN (Cook). I believe it will be in order—the further consideration of the motion of Delegate Corcoran for the substitution of Section One of the Minority Report of the Revenue Committee for Section Two of the Majority Report which is still before this committee.

Mr. Chairman, as I had anticipated at the close—

Mr. GALE (Knox). Mr. Chairman, as I understand the parliamentary procedure here, the delegate committee of the minority have presented a report which they have now moved to have substituted. I believe that under parliamentary procedure the mover of that substitute, the delegate from McLean, has the right to close the debate. Before he closes that debate, I have a word which I wish to say.

THE PRESIDENT PRO TEM. The Chair recognizes Mr. Gale.

Mr. GALE (Knox). Mr. Chairman, and gentlemen of that committee: I want to ask you all to remember—because I suppose you have forgotten practically all that I at least tried to say yesterday that after all the real question before you here is, whether or not you are going to tie the hands of the legislature here; whether you are going to leave to them the opportunity to meet changing business conditions from year to year. There are differences between the minority and the majority report; but the main difference to which the honorable delegate from McLean has referred lies in the classification of intangible property.

Now, I want again to impress upon you that the majority report does not require such classification; that it does permit it, the idea being that most of the difficulty in the State of Illinois arises from the taxation of personal property, and most of that difficulty in the taxation of the intangible property. It may be that under the uniform ad valorem tax intangible property can be reached and made to pay a fair share of taxes, but

it never has been accomplished in any state in the Union. The Majority Committee say that the legislature should be left to try to attempt in some other way to reach that intangible property. And if they find it cannot be reached, should be left there, if you please, to go back to the uniform ad valorem tax, if that, after trial, proves to be the better way to do. It is for more power in the legislature along that line that we plead.

I have heard much said by some of the delegates, who seem to think that this can be determined by a reference to the poor widow-woman whom they take as their measure of value. I am not rising in this Convention to plead on any such ground. I make my plea for the business interest of Illinois, because it is upon the successful prosecution of the business of the State of Illinois that the Government of Illinois depends.

You talk about making all holders of intangible property pay the same rate of tax that the holders of other property pay. I tell you it can't be done. You may devise a system by which you will collect from those holders your tax. I grant that that may be done. But they will never pay it. Who will pay it? The business of the State of Illinois; it is dependent upon it for its existence. They will pay the tax. And when that comes about, they will pay not only the tax on their tangible property, upon their business, which they are running for their own benefit, of course, but, incidentally, for the benefit of the State of Illinois; and, in addition, they will pay the intangible property tax. What do I mean by that? Simply this: That if you get on the tax rolls all the loans of money borrowed in the State of Illinois, and compel them to pay the tax, they, the lenders, will simply get back at the borrower by making him cover the reduced rate of interest, that is all. You will collect it from the business of Illinois, if you collect it at all.

My proposal is this: That when you collect that intangible tax, or rather, when you get the intangible property on the tax roll; when you make it up to two or three per cent, you will have driven the savings bank deposits out of existence, for they cannot live; and there is one source of loans that will go. What is the owner of the money, who is willing to put it into intangible property, or loan it on a mortgage to the farmer, going to pay? The farmer is, after all, the great business man of Illinois, taken in the aggregate. And the man who pays a much larger rate of interest, what is he going to do? He will go and get his money out and make the rate of interest five per cent or four and one-half per cent as it was a number of years ago, and as it will get to in time. Will he be able to borrow it at that rate? No; he has got to pay the tax upon it, because instead of loaning his money at four and one-half per cent or at six per cent, rather than paying a two per cent tax upon it, he will go and buy tax exempt securities—government bonds, from four and one-half to four and three-quarters per cent, because he will be ahead of the game by so doing. And if he loans that money at all where he is obliged to pay that tax upon it, he is going to loan it at a sufficient high rate of interest to reimburse him. If he can't buy government securities on the basis of four and one-half per cent, he will get six and one-half and seven per cent from the borrower, or he will not loan money.

Now, I grant you that that won't apply to the great insurance companies of New York, which may loan money here, and who cannot be reached by any personal tax that we may put upon them. That money we cannot reach. That money can still be loaned here. Do you want to discriminate in favor of people outside of the State of Illinois, who would be loaning money here as against our own citizens? Do you want to drive the funds of Illinois to be used in other states instead of here? Do you want to ruin—as you will ruin, if you get that through—the building loan associations of the State of Illinois? Do you want to tax their intangible property, their loans, at a rate of interest which will drive them out of business? It is up to you. What I want to go on record, here and now, as saying, is that some means should be left to the legislature other than this minority report would leave them, so that they may devise a system of taxation

which will not do the things which I have set forth here. I want to ask the delegate from McLean to explain a statement which he made yesterday, when he comes to talk. I believe I understood him. I understood him to say that when the Convention of 1870 was held this whole matter of classification was thrashed out. Now, I have those debates, and I have gone through them, but I cannot find wherein that question ever came up, save in the one instance.

Mr. CORCORAN (Cook). I beg your pardon, when you began talking I was interrupted. What you want is an explanation?

Mr. GALE (Knox). I ask that when you get up to make your speech, that you kindly explain what I understood you to say yesterday, to-wit: That this whole proposition of classification was thrashed out in the Convention of 1870. I know that you did not desire to mislead this Convention; and I know that you would not make that statement, unless you believed it to be true. But I want you to refer to the page, or pages, where that occurs, because I have gone through them, and I cannot find it. I do not believe it is there. I think you are mistaken. The only place where the classification did come up was on that final clause of Section One of the Constitution as it now stands where they provided for classification. That is to say—possibly you are familiar with it—but in the general clause, you will remember, “the General Assembly,” it declares, “shall have power to tax peddlers, auctioneers,” and then goes through a long list, a general list as to the class upon which it operates. But I cannot find in the debates of 1870 that the question of classification ever arose in any other manner.

I want to call your attention to the further fact that the majority report does not confine the legislature to the uniform ad valorem system. It does confine it to the classification of intangible property; it permits it to do one, or it permits it to combine to two; and it furthermore permits the substitution of either of them, which, it seems to me, is a proper and scientific way to do. The substitution of the income tax for the tax on all personal property is in this way effected. If, therefore, the majority report is wrong, it cannot be amended. But I told you, gentlemen, it seems to me that this minority report will impose a system of taxation on the State of Illinois which you will all at some time be sorry you had any part in permitting. I ask you carefully to consider and to vote upon this substitute proposal. You can amend the majority proposal if you think that it is wrong.

Mr. FIFER (McLean). I would like to ask the gentleman a question. Isn't it true that the more you reduce taxation or taxes on intangible property, the more you increase the taxes on real estate?

Mr. GALE (Knox). What do you mean by “reduce?” Reduce the total amount, or the rate? No, I do not think it is true at all.

Mr. FIFER (McLean). Now, if intangible property could not pay taxes—

Mr. GALE (Knox). Let me answer you, Governor. You continually interrupt when I try to answer.

Mr. FIFER (McLean). Yes, I will let you.

Mr. GALE (Knox). My own belief is, that if the rate be lower, you will get more out of the intangible than you could get with a higher rate.

Mr. FIFER (McLean). Isn't it true, that the lower the taxes are on intangible personal property, the higher it must be on real estate. Isn't that broad proposition true?

Mr. GALE (Knox). With regard to the aggregate amount of taxes, you are correct.

Mr. FIFER (McLean). Yes. Now, I understand you to say that there is a justification in that because the interest rate will be reduced to borrowers of money, isn't that true?

Mr. GALE (Knox). I think so.

Mr. FIFER (McLean). Yes. Now, it is my experience, in my section of the State that the owners of farm lands, as a general rule, are not bor-

rowers of money. And those that are not borrowers of money, will not be benefitted by the low tax rate, or by the low interest rate. But still they will have to pay on their land increased taxes for the benefit of the speculators in the city, who want cheap interest rates.

Mr. GALE (Knox). If you get into a situation in this country where you do not have any borrowers, you won't have much intangible property to levy taxes on; that is true.

Mr. FIFER (McLean). If we have an income tax, is there any real necessity for the classification of intangible property?

Mr. GALE (Knox). If you have a substitute income tax; no necessity whatever; no room for it whatever.

Mr. FIFER (McLean). I do not mean a substitute income tax; I mean the income tax such as provided in this report.

Mr. GALE (Knox). I think there would be, because you would still, or, rather, the legislature might still get their ad valorem taxes on all other property, upon tangible and intangible property.

Mr. MOORE (Macon). In other words, the only necessity or occasion for it would be in the ad valorem tax, to retain that on all classes of property, including intangible?

Mr. GALE (Knox). Yes.

Mr. MILLER (Cook). May I ask this: From your study of the classification in other states, there were, I believe, a few states where classification is now permitted in the Constitution—in some of those where it is permitted, the legislature has not acted on it. Is that correct?

Mr. GALE (Knox). I believe so. I believe there are twenty-five or twenty-seven states in which classification is permitted—

Mr. MILLER (Cook). (interrupting)—is permitted there directly, or because nothing is said in the Constitution on the subject?

Mr. GALE (Knox). I gave in my speech yesterday a list of names of those states in which all personal or intangible property is classified as being taxed at a less amount than the tangible property. I cannot tell you in how many; but it is so in a number of them, notably, Pennsylvania and Minnesota.

Mr. MILLER (Cook). From your study in this subject, what would be your expectation as to the way intangibles would be treated if the ad valorem tax were retained, on all property, including intangible?

Mr. GALE (Knox). How do I think it would be treated?

Mr. MILLER (Cook). Yes.

Mr. GALE (Knox). I cannot tell, except that the legislature should make some careful study of the tax rate which they believe would produce the greatest revenue on intangibles, and, at the same time, not disturb business. But I cannot expect them to levy that rate.

Mr. MILLER (Cook). I mean in the two states you gave—Pennsylvania and Minnesota. Can't you state what the rate is on intangibles as compared with that on tangibles?

Mr. GALE (Knox). No, I cannot. That information is hard to get, as nearly every taxing authority in Pennsylvania is a sort of supreme authority of its own; and the rate rules everywhere, in every city, vary.

Mr. MILLER (Cook). Because of the local needs?

Mr. GALE (Knox). Yes: they operate on local taxation instead of State-wide taxation. State taxation is pretty thoroughly separated from local taxation.

Mr. MILLER (Cook). Let me ask this, if I may, Mr. Chairman, if all of the real estate were taxed at its fair market cash value, would there then be any undue inducement on the part of the owners of intangibles to hide it?

Mr. GALE (Knox). Yes, I think there would.

Mr. MILLER (Cook). That is to say, that is because you think it would be unjust, then, under those circumstances to tax it at the same rate that real estate is taxed.

Mr. GALE (Knox). My reason for saying that is this: Intangibles are, in the main, in the cities. Now, the real estate of the State of Illinois is not worth as many billions of dollars as a great many people fancy. All the real estate in the State of Illinois is worth from eleven to twelve billion dollars. Seven billion dollars worth of that is in the country, and from four to five billion dollars worth in the cities. Now, your State tax rate is so high, that if you get all the intangibles on your tax roll, and you get all the real estate on the tax roll, you will find that there will be a vast expenditure going on in the City of Chicago at the rate they are going now, for instance; but you would still have the rate of two per cent on the full value of this property. And I say that savings banks deposits and that loans upon real estate in Chicago at from four to six per cent tax, and no attempt to hide it.

Mr. MILLER (Cook). Of course, it would, however, be no more unjust, I think, but they would be better able to escape it. That is to say, it would be no more unjust than on the real estate; but they would be better able to escape it. Is that true?

Mr. GALE (Knox). No, sir. It is my belief that it would be more unjust upon them, because of the development of real estate, and the earning capacity of real estate is made possible, to a very large extent, by the fact that they can borrow money upon it.

Mr. MILLER (Cook). The only reason I asked that question, Mr. Gale, is because something was said here yesterday about Ohio, and about a vote there upon a classification; and I think you answered to the effect that some other delegate would appear before the committee and speak on that subject.

Mr. GALE (Knox). Mr. Sutherland (Cook), on the Ohio election.

Mr. MILLER (Cook). As a matter of fact, I happen to know that they have pushed up the value of real estate, especially on the farms, and also in the cities; and the actual cash value of the assessments of real estate in Ohio; and the purpose doubtless was to aid in bringing out intangibles, and to make it more fair to them.

Mr. GALE (Knox). May I say a word right there? It seems to me if you are going to bring in the ad valorem tax basis in the State of Illinois, you are in a comparatively small number of years to reach the same point as if the majority report became a part of the Constitution of the State of Illinois. It would not make very much difference to the legislature. The only good, equitable, and fair way of taxation, and the only way to obtain results, is by taxing real estate justly and fairly, and put in an income tax as a substitute for the tax on personal property. The tax situation of the State of Illinois can be solved in that way.

Mr. MILLER (Cook). Let me ask this: Take the federal income tax with its enormous super-taxes. Does that fall more heavily upon the owners of real estate, or upon the owners of intangible?

Mr. GALE (Knox). I cannot tell you, sir.

I believe it falls more heavily upon the owners of—I would say intangible—but it falls more heavily upon the man who is doing business—upon the business man. And I mean that to include the farmer. He is a business man, as contradistinguished from the farmer who is merely farming a small tract of land to get a living for himself and for his family out of it. There are many men, and there is one member of this convention, at least, who is in the business on a large scale. I think it falls more heavily upon them.

Mr. MILLER (Cook). It is obviously true, then, that the great bulk of that is collected from the city, and the larger the city, and the greater the center of wealth, the greater the proportions of the collections there. Wouldn't you infer from that—of course, no one could tell absolutely—wouldn't you infer from that, that it comes chiefly from the owners of tangibles, because, of course, the business man who is a very large owner of corporate stock in the company that he is running, gets his income from his tangibles, to-wit: the stock in the corporation.

Mr. GALE (Knox). I believe that is true. But, of course, I have not the figures to show it. I do not know.

Mr. MILLER (Cook). In other words, so far as the federal taxation system is concerned, it is chiefly concerned with taking money from the owners of tangibles.

Mr. GALE (Knox). Yes, that might be so. I have no figures to show.

Mr. MILLER (Cook). I was going to ask this question, Mr. Gale. I do not want to take up much time, but your objections to a uniform income tax are, as I understand them: First, that it is unfair to the man whose whole income is practically consumed in his living expenses; and, second, that the owner of intangibles, really, would not be able to stand as heavy a tax as the owner of real estate.

Mr. GALE (Knox). I do not quite understand your coupling those two together; the income tax suggestion and the other. I think you have correctly stated my objections to the uniform income tax.

Mr. MILLER (Cook). But the other proposition; I was wrong about that. But you did say also, that you gave that as one reason, the one I mentioned. That was my impression. I was wrong about that. But you did say this: You thought the sentiment was against a uniform income tax.

Mr. GALE (Knox). I did say that I thought that was true. I have no figures to prove my contention. I do not know.

Mr. MILLER (Cook). That is merely your inference from what discussion you have heard?

Mr. GALE (Knox). Yes, sir.

Mr. MILLER (Cook). Isn't this true: That the Federal Government super-tax is working the graduated income tax about as hard as it is possible to work it. That is to say—

Mr. GALE (Knox). I think it is working it harder.

Mr. MILLER (Cook). In other words, the owners of the great incomes have been investing, very largely, in municipal securities and other tax-free investments; therefore, they have cut down their income tax enormously. Isn't it a fact that the large sales of municipal bonds is likely to bring about an orgy of spending by the municipal corporations, as they would be able to borrow money easier, which would result in a dearth of borrowing power by industries that provide the people with things to eat and wear.

Mr. GALE (Knox). I think, in view of what I know of the banking situation in my own home, and of what I have read in the newspapers, that the State of Illinois is going to be taught during the next year, a most terrible lesson on what happens to business, and what happens to the State when it is not possible to borrow money freely.

Mr. MILLER (Cook). I think that answers it.

Mr. GALE (Knox). I think the lesson will be so terrible, Mr. Miller, that if this Convention met later than now, there would not be a voice raised in the State of Illinois against the classification of intangibles.

Mr. MILLER (Cook). Now, let me ask one thing more: This is in regard to the income tax. Now don't you think that on the very matter that I just mentioned, the fact that the Federal Government is working that super-tax to the limit, and has got to continue to work it practically to a limit (which proposition will not be as great as the present actual limit) would not only that be a justification for a uniform income tax in this State as against a graded one, but would be a justification that would appeal to any man who was properly instructed on the subject?

Mr. GALE (Knox). I quite agree with you. And the majority report here does not require a graduated tax; but it permits the legislature to levy an income tax, which would give the people an opportunity of going to the other tax, if the federal situation changes. I cannot see any way to make possible a taxing system which shall meet conditions from year to year, except by giving leeway to the legislature.

Mr. MILLER (Cook). Now, the thing that I was asking about is this: I wanted a little light upon this question of the practicability of putting in a uniform income tax. Of course, it is obvious, I take it, that this objection

to the uniform income tax which you raise, and very clearly set forth—that the owner of a moderate income spends practically all of his income for his living expenses, and in that way has a tax of a rather large proportion. If he might be taken care of by, perhaps, increasing the exemption—taken care of to a certain extent, of course, there are then very strong reasons in favor of the uniform income tax, especially the one that it increases the number of the tax payers, and, therefore—

Mr. GALE (Knox). You cut that right straight out. That is a wonderful argument in favor of the income tax, but you cut it out if you raise the exemption.

Mr. MILLER (Cook). If you raise them much. But you could raise them to a certain extent. In other words, if you have a graded income tax, then the man who has the smallest income—for instance, if we had the kind of income tax that is provided by the majority report, of course, the legislature might provide for a one per cent tax on all incomes up to five thousand, and a six per cent tax over five thousand.

Mr. GALE (Knox). Yes, sir.

Mr. MILLER (Cook). Or, we have heard of some platform that admitted of no income tax up to five thousand, and offers one after that.

Mr. GALE (Knox). Yes.

Mr. MILLER (Cook). That might be very easily permitted under this system.

Mr. GALE (Knox). That might be done.

Mr. MILLER (Cook). Of course, when it comes to voting increases, and vote taxes, it is important that as large a proportion of our voters be tax payers as is possible, isn't that true?

Mr. GALE (Knox). Yes—

Mr. MILLER (Cook). That is to say, if you conclude that, you could make more tax payers in that way.

Mr. GALE (Knox). Yes.

Mr. MILLER (Cook). Would not this be true, that although you made more tax payers in that way, the aggregate number of tax payers—the small ones—would have only a fixed income rate anyhow, and would not be raised even if the general taxes were raised.

Mr. GALE (Knox). I see that danger, Mr. Miller. But I have the satisfaction that if the people of the State of Illinois always assume that the theory of democracy is worth the breath that it takes to say the phrase, they would continue to elect men of integrity and of at least reasonable ability to the legislature. We have in this Convention a number of men who are and who have been in the legislature of the State of Illinois. I do not believe that any member of the Convention will say that those are men who would not try to give the State an honest and workable taxing system if they had a chance under the Constitution so to do.

Mr. MILLER (Cook). Of course, that is an argument that we might apply to any limitation of the state on the legislature.

Mr. GALE (Knox). True. But some people advocate that you do not place any limit, precisely as in New York and Iowa, where they do not have any limit.

Mr. MILLER (Cook). Those are other matters. Just one more question: Is it not true—I think I am correct—is it not true that the income tax in Massachusetts is a uniform income tax; that is, they have the right to classification, but it must be a uniform income as to the class of the incomes.

Mr. GALE (Knox). It means a graded class, because they do classify incomes. They have carried the principles of classification to quite a large extent in Massachusetts. There, incomes come up at varying rates of taxation.

Mr. MILLER (Cook). Not according to size?

Mr. GALE (Knox). Not according to size, no.

Mr. MILLER (Cook). That was just ratified one, two or three or four years ago?

Mr. GALE (Knox). It is a very short time ago. It is the 44th article of the amendment of the Massachusetts Constitution. The Constitution seems to be made up of amendments mostly. This is the 44th amendment to the Massachusetts Constitution. Now, the gradation there, as I said, was done through classification. It is brief in that sense in which you mean because it says, "The class last taxed may have different rates upon incomes derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth from incomes derived from the same class of property." That was what I understood. That, of course, would be some evidence, I take it, that a provision for a uniform income tax would not be obnoxious to the good of all of the voters. It was not obnoxious to the good of the Massachusetts voters, or they would not have passed that amendment.

Mr. MILLER (Cook). I think that is all I want to have answered.

Mr. SUTHERLAND (Cook). I did not intend to participate in this part of the debate. The subject has been splendidly and adequately handled on both sides. And, I may say, that I have been especially impressed with the manner in which the opponents of the majority report, the proponents of the minority report, have clung to the task and discussed principles and issues, rather than personalities; but inasmuch as the chairman of the committee has referred to me with reference to answers and questions regarding the Ohio votes on classification in the 1918 election, it appears incumbent upon me to give such information as I have at hand. In 1918 there was voted upon this amendment to the Constitution, "That property shall be taxed by such rules and methods and in such classes as may be provided by law. The rules and methods shall be named within the classes so established." This, Mr. Chairman, was not the first time that a classification provision had been voted upon in the State of Ohio. As far back as 1907 or 1908, an amendment of similar nature was submitted in the General Assembly of Ohio, and was very nearly adopted. Ohio has, as we have in our Constitution, the requirement that an amendment must be passed by a majority of those voting at the election, not merely a majority of those voting on the proposition. That amendment although widely opposed with the same pleas that are now made against classification, was approved by a large majority of those voting on the question, but failed to be carried by a small margin of the required majority of those voting at the election. A few years later, an amendment was submitted again and did not have very much backing or educational support. It failed. In 1917 there was submitted an amendment to the Ohio Constitution. The amendment submitted required a specific method—it provided a specific method in regard to the taxation of mortgages. The other amendment was a broad amendment, similar to the one proposed in 1918. Although the amendment received a large majority of all the votes cast at the election (including the amendment providing for classification) and, in fact, both amendments received a majority which made possible their adoption; the amendment that provided for a specific change had still a larger vote than the other amendment. The matter was taken to the court and the court held that there was a conflict, and that the amendment which carried by the larger vote should prevail, the conflict being that the first amendment re-stated the old language of the Constitution. The language was proposed to be changed by the second amendment, and so that amendment, although receiving a very large vote—seventy or one hundred thousand majority—was declared by the court to have been defeated by the people who had largely voted therefor.

In one year we have the people voting for the subject of classification, and in the next year we find them apparently reversing themselves on the question, the question of classification. The question naturally arises why they did so. The editor of the Bulletin of the National Tax Association of all of the taxing officials of the country—almost of all the representatives of the tax-payers organizations, and large tax paying interests in the country—endeavored to ascertain the reasons for this reversal of public opinion in Ohio, and to see whether it was due to any change in opinion as to the

desirability of the change. He endeavored to ascertain whether it was due to some other causes which did not appear on the surface. He prints a number of brief extracts which were taken from letters which he received in reply to inquiries. I shall not burden you by quoting those extracts. Post mortems at best are unsatisfactory; but I shall give you his digest of those post mortems, pro and con:

"These brief extracts from the replies, or statements of their substance, will perhaps leave the reader in confusion and doubt. They will, however, repay careful reflection and analysis by those who are seeking information as to how to conduct a campaign for classification. We are, as above indicated, "inclined to think that the defeat was largely due to a failure to thoroughly understand the recent changes in the other states, particularly in the neighboring State of Kentucky, thus making it possible for references to certain specific results to be issued which, while true, did not present the picture in those states.

"Another important cause appears to be the decided feeling of dissatisfaction with government in general, which has failed to function properly, is quite natural under present conditions of upheaval and unrest. We think it probably true that the people hesitated to extend governmental powers in this situation. In other words, the time was most inopportune to propose a change.

"We fail to appreciate the importance of the specifications of ignorance, inertia, prejudice and misrepresentation alluded to by the writers above quoted. It was not inertia but a definite purpose to avoid further fundamental changes in tax laws, under existing pressure from the Federal government and that due to the friction in business and living conditions.

"It is at least comforting to note the admission by opponents of this classification that the question was not really one of classification in general. And above all, the Oregon situation should be remembered and the many defeats there before final success. We refer the despondent Ohio friends to the encouraging description of the long fight in Oregon, written by Optimist Galloway and published in the Bulletin of February, 1919, p. 106."

Now, permit me to quote from a letter which I received from Harley L. Lietz, of the Department of Economics in Oberlin College, Oberlin, Ohio: "The ignorance of the voters on the real merits of the issue. Not one man in 10,000 knew anything about tax conditions in other states, and the proportion who appreciated the historical situation in the state was but little greater. It was, therefore, very easy to mislead and confuse people, notwithstanding the great interest in the subject. For instance, the actual local tax rates in Minnesota and Pennsylvania were compared with those in Ohio, and the difference attributed to classification. No speaker whom I heard make this comparison was honest enough to point out to his audience that the Minnesota rate was on an assessment, the legal basis of which, for farm lands, was 33½ per cent of full value; and there was a similar silence regarding the notorious underassessment of real estate in Pennsylvania.

"The opponents of classification posed as defenders of the home against excessive taxation, and it was very easy to arouse prejudice by the appeal to class feeling. A typical illustration is found in the platform of the Home Owners' Defense League, a copy of which is enclosed herewith, together with our answer to the counts made. The single tax bugaboo was also invoked, though nothing could have been farther from the truth.

"The second factor was the determined opposition of certain interests because they guessed that such a course would net them advancement. One of the latter will doubtless head the Democratic state ticket, but it is significant that he is now saying that the people must choose between rigid enforcement and classification. Last autumn he admitted no choice, but demanded rigid enforcement.

"In conclusion you may be sure that the uniform was not retained because of general satisfaction with its operation. More than one Ohio city has defaulted on interests; none of our municipal bonds are acceptable under the New York Savings Bank Act; and we are keeping taxes of its

friends and the misrepresentations of its enemies; and its enemies were chiefly those who, for other reasons than interest in finance, posed as friends of the laborer and home owner. Nobody is satisfied with the present condition, and few can be found who will affirm that permanent relief can be had along present lines; but politics and the various lines of class prejudice continue the deadlock."

It has been expressed that if we provide for a broad classification, which we have not provided for in this amendment, that we make it wide-spread, that it will be an open door to the single taxer. Gentlemen, you remember, one of the great urges for that argument was that their particular objection stated that certain representatives of the people said that they wanted classification so that they might put into effect a single tax program. In that way, it may be that the next generation might elect a General Assembly that would do that. Gentlemen, when constitutions become intolerable you have revolutions; when evolution and comparative improvements and gradual changes are possible you do not have revolution, and you do not have the possibility of the thriving of hair-brained schemes of so-called reformers. I want to call your attention to the fact that it is in the old general property tax states that there is the greatest demand for the single tax. I want to call your attention to Missouri. I want to call your attention to the experience of Oregon, until they made a change in their constitution permitting reasonable changes in taxation. I want to call your attention to the fact that in the last election in Ohio they permitted the defeat of a reasonable and sane amendment to the Constitution which would have made possible a change in the basis of taxation so that reasonable burdens could be levied on every value. Following the holocaust in the last election a specific amendment for the single tax was initiated by the single taxers, and appears as proposal No. 20. It was voted on at the last election, and I assume that it was probably defeated. But I call your attention to the fact that it probably got a pretty good sized vote; and that vote included many people who felt, as the people of this State feel, and know, that the old taxation system, which it is proposed to write with emphasis into the Constitution under the terms of the minority report—by supporting such a proposition as clinging to the present system, you encourage the single tax, and you encourage any other crazy reform that may be urged as a measure of improvement to relieve the situation.

THE PRESIDENT PRO TEM. Gentlemen, what is your further pleasure?

Mr. KERRICK (McLean). After adjourning last evening I found myself possessed of quite copious notes, but as I thought then, and as proved to be the case upon consideration of them, I concluded there was little or no need of any reply on my part. Perhaps that is still true, but since it has seemed necessary to the gentleman on the other side to bring out in as strong force as possible their reserve in the present emergency, and because of the fact that as I view the matter there are many statements that he has made which are utterly unsound, but which have not been replied to, to some extent, would be of a very misleading character, therefore, I will aim to trace them up.

First of all, while it may not come in regular order, there are two things I would like to say in reply to the direct question propounded by the honorable delegate from Knox as to where I had seen or what was my authority for a statement in the Constitutional Convention of 1870, that classification was among the many propositions presented for the consideration of that convention. He challenged me—perhaps, the question can be characterized as a challenge properly—to bring out or direct him to anything in the record which would sustain my statement.

I cannot say precisely in what way or form or from what source I have got that information, but I will get it because I know it exists, and I will take the pains before we conclude this argument if necessary to show the gentlemen it is true, that that position is one that was under consideration in that Convention.

I am inclined to think that the source from which I received my information was from some one or the other of the publications furnished by the Reference Bureau, made up in some statement—made by Mr. Hayes in debate. I am not prepared to say it was a form of a proposal presented to the committee but it was a question discussed. The classification was discussed in that Convention. I have the data. It was not a matter of mere surmise or guess on my part.

Again talking to the matters in reply to the distinguished chairman of the committee on revenue, I am glad of the opportunity to disabuse what idea might perhaps be had by my friend, the gentleman from Knox, regarding some allusion I made to Milton Hay and might be drawn from the remarks of my friend. It was not in my mind to draw a comparison, invidious or otherwise, between Milton Hay and himself, I am glad to disabuse him of any such a thought. I could not entertain such a thought with reference to a gentleman for whose unusual talents and very exceptional ability, I admire him. I could not entertain such a thought, but on the contrary I feel myself under obligation, for the many courtesies and kindness and great consideration extended to me, a somewhat obstreperous member, I admit, of the committee over which he presided with such patience and impartiality. Now take that for what I say.

But, after having said that I am not at all backward about disagreeing with him when I am practically certain beyond any doubt; because like all of the rest of us, he sometimes gets the wrong conclusion.

And adverting to a matter of no very great importance, among those which he presented by way of imparting his views with relation to a graduated and progressive tax, income tax, I was struck with the remark that such a tax would be a very pleasing and gratifying thing particularly to our anarchistic friends; that is to say if we did not show them that we were somewhat against the fellows that hold the big pocketbooks, that they might be aggrieved into a revolution. There may be something in that, but after distributing among the anarchists, pretty liberally, some such soothing syrup as that, if you retain a few drops for that class of our people who have not arisen to the extent of anarchy, but who are laboring and suffering under the burden of carrying 19/20ths of the taxes of their people because these statistics show that out of the value of all of the intangible property in the State of Illinois—as to the amount of which, to my surprise the gentleman from Knox and myself are in substantial agreement—we are receiving a tax upon less than 1/20th of it.

I think I shall take no more time to reply or answer to what was said by the delegate from Knox, because it was nothing more than repetition in substance of what he said as well, at least, in the earlier progress of this discussion.

I shall not in detail attempt to discuss all that has been said by all of the speakers, by any means. It would be unnecessary, but some things have been said which do call for an answer, or rather a correction.

It has been said here that there are twenty-seven states in this Union believing in classification. Well, a few states more or less may be as "Andy Gump" said about a few more strokes to a hole in golf—"nothing to speak of between friends"—but in a publication of the Civic Federation which I happen to have upon a recent date, used for the benefit of this Convention, it was only claimed that twenty-four states instead of twenty-seven were of that persuasion. I think since this was published some of those things have changed.

However, of those twenty-four states, the State of Kentucky which has since voted for classification was counted, but the State of California which is included in the number claimed has been marked "Limited Classification permitted." That limited classification was only permitted in the case of something which we have never adopted and never will adopt, the segregation, as it is called, of revenue and State income and local revenue; though that is in Maine. California was limited classification, cutting out too, and also Maine was included in that list.

Mr. SUTHERLAND (Cook). May I ask the gentlemen a question?

Mr. KERRICK (McLean). Yes.

Mr. SUTHERLAND (Cook). Will you please read the document you have in your hand, and particularly the footnote that is referred to by the picture opposite California?

Mr. KERRICK (McLean). I have read it.

Mr. SUTHERLAND (Cook). Will you read it again? I did not quite understand the gentleman to read it correctly.

Mr. KERRICK (McLean). I would prefer that you read it yourself. You are so uncertain about my veracity, or my memory, I do not like to read it, and if you read it yourself it will probably be very gratifying to yourself and the rest of us.

Mr. SUTHERLAND (Cook). The footnote above refers to the California limited classification with consideration to the source of State and local revenue.

Mr. KERRICK (McLean). Isn't that segregation in one respect?

Mr. SUTHERLAND (Cook). Classification.

Mr. KERRICK (McLean). In the consideration of State and local revenue, in your system?

Mr. SUTHERLAND (Cook). Yes.

Mr. KERRICK (McLean). Well, I said segregation.

Mr. SUTHERLAND (Cook). This list of states however is not given as a list of classification states but merely as a list of states which have some variations, and it would be, it seems to me, only fair to read the caption of the states as well as the list.

Mr. KERRICK (McLean). Now that the matter has taken shape and my attention has been directed to some things by the delegate who has just been questioning me, I have something to say about what happened in Ohio. To begin with, the amendment was defeated. It failed to secure a majority of the votes cast at the election; it failed because the proposition itself did not have a majority vote. A good many people have in my belief an erroneous notion on how much that amounted to. If you will recall every case where you voted at an election where the proposition was of a nature where it required a majority of the votes cast, everybody was advised, because it was a big thing and excited discussion and remark, everybody was advised, who was against the proposition, that it was of no difference whether they voted on the proposition or not, that a vote not cast was equivalent to a vote against the measure. In a sense it is very little different from any other election where a plain majority wins every time. So when in this State and in Ohio on a proposition requiring a majority of all of the votes cast it does not receive such a majority it is because a majority of the people in the State are against it and in that way Ohio has three or four times condemned classification.

Now, then, I am familiar myself with what the National Tax Association is and the confusions of its composite mind. It is in that respect one of the powerful engines to promote classification. The man who rises to talk in one of its annual meetings, who has something to say unfavorable to classification is persona non grata. Assuming this name which I assumed for a long time, and which lead me to believe it was an organ of the United States of America when it is a purely voluntary organization, which has of course among its members here some tax commissioners, and in other states the same, and from everywhere they have friends, wherever a friend to classification can be obtained. The document from which the gentleman from Cook read to you a while ago contains such material and it is the official organ of that association, but it contains material which clearly shows that the result of the election in Ohio has shocked and alarmed and given cause for great concern to the editor of that paper, to such an extent that if all were read in it it would show that he was on the doubtful seat upon the classification question. It was also time for others to sit up and take notice that that was so, and take time to take up something else.

I am willing to have every word of that paper read including a letter from a man who was characterized by the editor as evidently concerned. He has sent out over the country a lot of letters inquiring why in the name of good conscience this terrible thing happened to us, and let us know what you think about it. Among the other letters was one that he got back from this man who reported from some city through the medium of the publication to his superiors; and he said that this man was evidently telling the truth, he is evidently sound about it, that he was a friend of his brother classificationists, but he is convinced that something is rotten in Denmark, and he says among other things the reason that the people of Ohio repudiated that amendment was because of the fact that they were deceived by the bankers and brokers who lead the fight in behalf of the amendment into believing what was untrue, that it was a great benefit to the farmers of Kentucky, and in that paper there was a tabulation of the taxes in Kentucky, which compelled the editor to admit that it appears to him then not true.

Now that is just a little of the stuff that has been forwarded to you here to be reflected by your vote.

Another gentleman says what will the people of Illinois say to us when we come back to them without affording to them any relief upon this matter of taxation.

For God's sake relief to whom? If for anybody I hope not to the tax skulkers who want to hide their property to a greater degree, but to those who bear 19/20ths of the burden so that two shoulders will be required to carry the burden instead of one.

Now facts are facts, and common sense should prevail and bunk should not go in this Convention or anywhere else. When I see my friend from Cook, of kindly countenance with deliberation and severity of mein, proceed to interrogate the delegate from Knox, it augured to me that something serious was going to be done in the way of heckling, and I really was afraid of what might happen, but I am happy to say when he had finished I had been mistaken as to his preference and it reminded me of the narrative of the young man journeying from afar to sit at the feet of Gamaliel to learn wisdom through the medium of a prearranged questionnaire.

That is the sort of thing that is tried to be forced down on us and there is no use trying to disguise it or camouflage it. It seems to me a waste of time to go over in detail and develop what has been said in this debate in support of the proposition which is intended for no other purpose or aim but to allow the bankers and the men who shift from their hands to another's hands a piece of paper showing intangible property and do it quickly because they can say to the purchaser, "you will be able to conceal it from the tax assessor or the law, which will make it exempt."

Why, gentlemen, this country is absolutely swarming with loan brokers of one sort or another. Why, we are flooded with them in our town, they are everywhere, there are acres of offices crowded with clerks concerned with nothing else but the matter of earning commissions for the transfer of intangible property securities. It is time that the people of this State should arouse and take this thing by the throat and choke it.

No buncombe, gentlemen, it is a serious fact, I could talk about a year on this same line and not get off the track, but I think it is not worth while.

Mr. MILLER (Cook). I would like to arise to a question of personal privilege.

CHAIRMAN WHITMAN. The gentleman has the floor.

Mr. MILLER (Cook). The preceding speaker said that I asked a question of the chairman of the Committee on Finance and Revenue in consequence of a prearranged plan.

Mr. KERRICK (McLean). I don't think it was prearranged, but it seems to be working well, just the same.

Mr. MILLER (Cook). I am glad the gentleman is going to take it back for I think the gentleman did not listen because as a result of my question-

ing I became satisfied that I could not agree with the majority report and I am equally unable to agree with the minority report.

CHAIRMAN WHITMAN. The question before the House is on the substitution of the minority report, first section, for the majority report. (Motion lost.)

CHAIRMAN WHITMAN. The next question before the House is on the minority report presented by Judge Shuey.

Mr. SHUEY (Coles). I wish to offer an amendment to the second minority report that is on file.

CHAIRMAN WHITMAN. You ask unanimous consent that the amendment to your minority report shall be read, as the clerk now has it?

Mr. SHUEY (Coles). Yes, sir.

CHAIRMAN WHITMAN. There is unanimous consent, so ordered. (Report read.)

Mr. SHUEY (Coles). I would like to offer this minority report as amended as a substitute for the majority report now on file.

CHAIRMAN WHITMAN. You want to offer that as a substitute for the majority report?

Mr. SHUEY (Coles). Only section 1.

CHAIRMAN WHITMAN. The motion before the House is that Judge Shuey be allowed to replace Proposal No. 381 by the Proposal just read, are you ready for the question?

Mr. TRAUTMANN (St. Clair). Are you attempting to substitute your new report for Section 1 of Proposal No. 378?

Mr. SHUEY (Coles). Yes, sir.

Mr. TRAUTMANN (St. Clair). That is what I am asking. If he is going to do that, I will raise a point of order.

Mr. SHUEY (Coles). My intention is to substitute this minority report as amended for the majority report.

CHAIRMAN WHITMAN. The gentleman is out of order. That cannot be done until it is printed and laid on the desk. It cannot be discussed until that time.

Mr. DUNLAP (Champaign). That is an amendment to the majority report and it does not have to be printed.

Mr. HULL (Cook). If the gentlemen can advise us the contents so that we can understand it I think that we can waive the printing of it in order to make progress.

CHAIRMAN WHITMAN. I am mistaken in what I said about it, if the Committee of the Whole sees fit to take it up they have the right to do so. You are right, Mr. Hull.

Mr. SHUEY (Coles). If the delegates will refer to the printed report No. 381 I will suggest the changes that I have made by the amendment. In line 5 I have inserted the word "or" in beginning of the sentence. In line 7 I have inserted between "other" and "taxes" "all other taxes." In line 8, I have inserted "the" instead of "and" after the word "property."

After the word "income" in the 10th line I have stricken out lines 11 and 12 and inserted "subject to deduction thereafter provided."

I also struck out that clause beginning at 20th line and down to and including line 25, and I inserted subsequent to the 28th line "and the income tax may be graduate and progressive, but the higher tax shall never exceed six times the lowest."

At the end of the section, the term "intangible" shall be construed to include money on hand, on deposit or at interest, bonds or shares of stock, notes and choses in action."

And also insert another paragraph which reads "No dividend paid by corporations to stockholders shall be listed as income where the corporation has been required to list its income for taxation."

I also have another paragraph inserted in the amendment: "The General Assembly shall have power to impose ad valorem taxes on all intangible property within this State owned by any person or corporation not paying income tax in this State. If any income tax is levied against

a corporation which pays a certain part of its gross income to the State, in lieu of tax any such payment may be deducted from its income tax, but such deduction shall only be made from tax upon income arising out of that part of the property of such corporation which contributes to the gross income upon which is calculated the percentage paid to the State."

And the last paragraph reads "the income tax shall be a substantial tax and shall approximate the ad valorem tax burden."

Mr. REVELL (Cook). Might I not suggest that Mr. Shuey be permitted to go on with his statement and while he is making his statement there must be a number of stenographers in the immediate vicinity who might, each one of them, get out eight or ten of these reports. We would easily get enough in a very few minutes to supply this body and I suggest therefore that unless there is opposition, and without a motion, that the Judge be permitted to go on with his statement, and the value of it will develop as he proceeds and then let the organization here, the committee on rules and procedure, or some other officer arrange to get these out in the meantime while that is going on. I move you the unanimous consent of the Convention be given to Judge Shuey for that purpose.

(So ordered.)

Mr. SHUEY (Coles). Mr. Chairman and gentlemen of the Convention, you have heard a very lengthy and able discussion of the question of classification of property and I do not feel that I would care to extend a discussion of that subject to a great length. When I became a member of the Revenue Committee at the beginning of the work of this Convention I felt that I had been assigned to a very important committee, and from the literature that I had received in the form of bulletins prior to my coming to this Convention and after having come here I was convinced at that time as I thought, that classification was a solution of this problem and that all that the Revenue Committee would have to do would be to authorize the legislature of this State to classify intangible property and make a report to the Committee of the Whole, they would adopt it and we would be through.

Those impressions came from the literature that we were furnished with on this subject. After a further investigation into the subject of revenue taxation and finance, and as I learned more as I thought on this subject, and it grew more important daily to me, I changed my opinion and did not feel that classification was a solution of the problem, and I am still of that opinion, and that was the reason for the failure on my part to sign or agree with the majority report, and I could not agree with the minority report by Mr. Kerrick and others for the reason it seemed to pile up one tax on another, and that we were left or would be left in the same condition if we adopted the report which was offered as a substitute for the majority report here, in the same position practically that we were in when we started on our work, so I brought in my minority report, believing it was my duty as a member of this committee to express those views for your consideration.

What is the matter with the revenue section of the present Constitution?

What objections have you heard raised to it in the last twenty-five years? The only objection that I have heard has been that intangible property could not be reached under the present Constitution. I have never heard any objection to section one so far as reaching tangible property was concerned, but the only objection has been that it was impossible, after fifty years of experience, to reach intangible property. If that is the trouble why not go direct to the cause and leave that part of section 1 of the Constitution, that has served us for one hundred years in Illinois, as it is.

The majority report does not go directly to the cause. If my house needs a roof I have a roof put on it. If my house needs painting I paint it. If it needs a new pane of glass, I put in a new pane of glass. If my neighbor's automobile has a punctured tire, he mends it. If it is a blow out he buys a new tire and it seems to me that is what is concerning us here today in this great question. This majority report provides for an ad valorem tax, as we have had it for fifty years, to begin with. It provides also for classification giving the legislature power to classify intangible

property and fix any kind of a rate on the different kind of intangible property it may see fit to do. The proposal provides for an income tax, in addition to that. It provides that an income tax may be substituted for an ad valorem tax on intangible property. It provides a graduated income tax, and I say to you, gentlemen, that if that report is adopted here you might as well remove all of the restrictions that have been in the Constitution of this State for one hundred years and leave it absolutely to the State legislature as to the raising of revenue.

We have been sent here for some purpose, and that purpose is to make only such changes in this Constitution as experience and wisdom have indicated are necessary. It seems to me that the principle of uniformity of taxation of property according to its value as provided in the present Constitution is right and equitable, but it has never been workable in any State of the Union nor in any country of the world as far as I know. Nearly all of the property in this State up to fifty years ago consisted of real estate and tangible personal property, which was visible to the eye of the assessor, and but little objection was made to the present revenue article. But in the past fifty years conditions have changed until now by industry and speculation, there has developed in this State a vast amount of intangible wealth, estimated to be as valuable as tangible property.

Being invisible in character its owners, or many of them, have ignored the law requiring a return of such property for taxation, and refuse to list it. Good authority has said that less than fifteen per cent of such property is assessed and contributes to the support of the government. If this is true, eighty-five per cent of one-half of the entire wealth of this State contributes nothing to the support of the State government, notwithstanding the fact that its owners enjoy protection and conveniences afforded them by taxation as fully as though they paid such taxes. With the experiences we have had, shall we continue the present plan of raising revenue, or shall we change the plan? If we make a change, what change shall be made? These are the questions now before every delegate in this Convention. The prospect of a change in the method of raising revenue perhaps had more to do with calling a Constitutional Convention than any other one question. So, it is necessary for this body to offer a different method and offer a plan that will be just to all. If we are to change the plan for raising revenue, I ask again what should the plan be? I believe we all agree the trouble is not in listing real estate and tangible personal property for taxation, but in listing intangibles. If this is true, shall we continue the present principle and plan of taxing tangible property by imposing an ad valorem tax as provided in the present Constitution: If so, then the change, if any, should apply to the plan of reaching intangibles. Our experience has convinced us that this kind of property cannot be reached by the local assessor and listed as tangible property; so it seems that the change should be made here.

The majority report offered the plan of classification as one of the solution; the minority report offered as a substitute for the majority report, provides a uniform tax by valuation on all property as provided in the present Constitution, with an income tax on incomes with right to deduct ad valorem tax on incomes from property paying ad valorem taxes; and also provides that such income tax shall be levied at a uniform rate except that a lower rate may be imposed on income derived otherwise than from property.

The second minority report, after it gives the legislature power to levy taxes by valuation on all property in this State uniform as to persons and property without discrimination, provides also that in lieu of taxes on intangible personal property, the General Assembly shall have power to levy an income tax at a rate to be determined by the General Assembly on all incomes not arising out of property on which the income tax payer shall be required to pay ad valorem taxes. The main features of the reports on file on which there is any material controversy are those referred to. As to the plan offered by the majority report giving the legislature power to classify intangibles for the purpose of taxation, this plan has never

worked well in any State where it has been adopted or authorized by the Constitution and put into practice. It opens the door for favoritism and evasion. It would shield those most able to pay under the pretense that by giving them a lower rate, they would be induced to list their property for taxation and the State would hereby derive some benefit now withheld. Those who favor classification, so far as I know, do not claim that it is morally right or just, but base their argument on the ground of expediency. Members of the legislature would be besieged by lobbyists and persons interested in this or that kind of intangible property to procure a lower rate of taxes; and this would open up a great field for corrupt members of the legislature or those who could be influenced improperly to sandbag corporations and individuals owning certain kinds of intangible property on the assumption that unless they complied with certain demands, the rate would be raised. This sort of a condition could eventually have a very unfavorable influence upon the value of intangible property, and would no doubt affect the financial conditions of the State by reason of the uncertainty of intangible values. Classification of property involves a division of property into different classes for the purpose of levying upon those different classes different rates. The rates are to be uniform throughout the same classes. Classification is a system of preferences. Many persons who favor classification would be satisfied if all intangible property were exempted from taxation and the income therefrom also, and that no other property but tangible property be taxed. Some classificationists maintain that intangible personal property should pay no taxes and that only material wealth should be taxed.

There is no doubt in my mind but that an income tax is more equitable and just than any other kind of a tax and it seems to me that it has proven more satisfactory in those States that have adopted it in lieu of ad valorem taxes on intangible property. Many of the States that have heretofore adopted classification of intangible property have since abandoned the plan and adopted the income tax in its place. In the State of Wisconsin in 1908, the Constitution was amended so as to permit an income tax. This was followed by a law passed in 1911 by the legislature providing for such a tax, and the system has worked so well in this State and has brought in such a large additional amount of revenue, and has been such an improvement over the old method that tax experts have generally conceded that the income tax is preferable to the classification plan. Since 1911, West Virginia, Oklahoma, Connecticut, Missouri, Delaware, Minnesota, New York, and Ohio, have adopted the State income tax law.

The income tax laws of the past nine years are grouped in two classes, those which apply to incomes of all kinds as in Wisconsin and New York, and the other group, comprising all other States having income tax laws, have applied them to a limited amount of incomes. The New York law exempts intangibles from the ad valorem property tax and this is also true in Massachusetts and Wisconsin. It seems very equitable that every citizen should contribute to the expenses of the government according to his ability. It is said there are two ways of determining ability to contribute to the expenses of the government; one of those is the value or extent of the citizen's property; the amount he holds and owns; the other is the income which he receives.

If an income tax on incomes from intangible property is to be substituted for the ad valorem taxes on such intangibles, then it seems that the income tax should apply not only to incomes from intangible property, but all other incomes with the right to deduct the ad valorem tax from income tax arising out of property paying ad valorem taxes. This would prevent double taxation. If the income tax applied to incomes arising from intangible property only, the tax dodger would be placed in the position where he would assert that the income did not arise from property but from personal endeavor. The opportunity given to cover up intangible property under the general property tax provision of the present Constitution is the one thing that has led to the present situation.

Several members of the Revenue Committee have been of the opinion that great latitude should be given to the legislature in working out a revenue article. I have been unable to agree with this view. This body is made up of perhaps as able a group of men as ever assembled in this State. We have delegates in this Convention who perhaps could not be induced to become members of either branch of the State legislature. They have given their time at a great sacrifice to assist in building a good Constitution and lay the foundation for a better State government. It is conceded by most of the delegates that no other one subject before the Constitutional Convention is as important as the question of revenue. For five months the Revenue Committee and members of the Constitutional Convention not on the Revenue Committee, have given this subject careful study and thoughtful consideration and it would seem that a body of men possessing the caliber that this Convention is made up of, after extensive and careful study of the subject, ought to be better qualified to draft a revenue section that could be drafted by any legislature that would probably assemble in this State within the next fifty years. I know of but two ways of raising revenue, one is by ad valorem taxes and the other by income taxes. If this is true, why experiment? Why leave the bars down to the members of the legislature who have not made a careful study of this subject, to draft some measure of an experimental character, that would be unworkable and exceedingly dangerous. We should be big enough and far-seeing enough to adopt a revenue article in this Convention that would be broad enough to require every citizen, rich or poor, white or black, to contribute his or her just portion of the expenses of running the State government. Too many people pay nothing. If every person was required to report all of his income, including incomes from personal endeavor, with right to deduct ad valorem taxes from income arising out of property paying ad valorem taxes, the State would be able under such a provision to get the benefit of personal services where the same were put into a business, with the mixture of income from property and services. The grain buyer has but little grain on hands which is subject to an ad valorem tax when the assessor comes around to make the assessment in the spring of the year, and yet he sells grain all year. This is true of the coal dealer, the automobile salesman, and so it is true with the grocery man, dry goods merchant and hardware dealer. If these people were required to file an income tax report of all incomes for the year, with the right to deduct the ad valorem taxes placed there by the assessor, it is very apparent that this would be a source of much additional revenue. These matters are some of the things which led me to believe that some provision like the one submitted as a substitute, to the minority report now under discussion, should be adopted that would bring about a more just system of taxation.

The question of how far the legislature could go under the decisions of the courts and the Federal Constitution, in reaching incomes beyond the State or the incomes arising from property belonging to non residents, who have incomes from property within the State, are questions that would have to be worked out by the legislature in drafting the revenue law with reference to the decisions of the courts and the Federal Constitution. The people of this State have a right to know, when called up to substitute a revenue article for the article of the present Constitution or any section thereof, just what is to be substituted for what we have at the present time.

If authorized by the State Constitution would the legislature have the right to impose a tax upon the income of persons or corporations arising or earned outside the limits of the State?

It so authorized would the legislature have the right to impose a tax upon the incomes of foreign corporations earned within the limits of the State?

Would taxes imposed upon incomes of corporations engaged in interstate commerce be obnoxious to the Federal laws?

Would the question of interference with interstate commerce be involved in a tax on domestic or foreign corporations doing business within or without the State?

In answering these questions, the Attorney General of this State says: "At present the law upon the subject of how far a state may tax the income of its own citizens derived from business carried on in another state, is not fully developed. But a start toward the solution of this question has been made by the Supreme Court of the United States in two recent cases. In *Shaffer v. Carter*, 40 Sup. Ct. Rep. 221, 227, the court seems to assume that it lies within the power of a State to levy a tax on the income of persons resident within its limits, irrespective of the source of such income. In that case the constitutionality of the income tax law of the State of Oklahoma, which was enacted in 1915, was under consideration.

The Constitution of Oklahoma, besides providing for the annual taxation of all property in the State upon an ad valorem basis, authorizes (article 10, section 12) the employment of a variety of other means for raising revenue, among them graduated income taxes.

The first section of the income tax law of that state reads as follows:

"Each and every person in this State shall be liable to an annual tax upon the entire net income of such person, arising or accruing from all sources during the preceding calendar year, and a like tax shall be levied, assessed, collected and paid annually upon the entire net income from all property owned, and of every business, trade or profession carried on in this State by persons residing elsewhere."

A subsequent section provides for certain deductions.

The principal question involved in that case was the right of a state to impose a tax on the incomes accruing to non-residents from their property or business within the State, or their occupations carried on therein, and one of the contentions made was that the act denies to non-citizens the privileges and immunities to which they are entitled, and also denies to them the equal protection of the laws, in that it permits residents to deduct from their gross income not only losses incurred within the State of Oklahoma but also those sustained outside of that state, while non-residents may deduct only those incurred within the state. In disposing of this contention the court said:

"The difference, however, is only such as rises naturally from the extent of the jurisdiction of the state in the two classes of cases, and cannot be regarded as an unfriendly or unreasonable discrimination. As to residents, it may, and does, exert its taxing power over their incomes from all sources whether within or without the state, and it accords to them a corresponding privilege of deducting their losses, wherever these accrue. As to non-residents, the jurisdiction extends only to their property owned within the state and their business, trade or profession carried on therein and the tax is only on such income as is derived from those sources. Hence there is no obligation to accord to them a deduction by reason of losses elsewhere incurred."

With respect to an income tax on domestic corporations, there would seem to be no constitutional difficulty in taxation by a state of the net income of such corporation from its business operations, wherever they are carried on. *Peck v. Lowe*, 247 U. S. 165; *U. S. Glue Co. v. Oak Creek*, 247 U. S. 321. In the latter case the court said:

"Such a tax, when imposed upon net incomes from whatever source arising, is but a method of distributing the cost of government, like a tax upon property, or upon franchises treated as property; and if there be no discrimination against interstate commerce, either in the admeasurement of the tax or in the means adopted for enforcing it, it constitutes one of the ordinary and general burdens of government, from which persons and corporations otherwise subject to the jurisdiction of the states are not exempted by the Federal Constitution because they happen to be engaged in commerce among the states."

I am of the further opinion that your second question must also be answered in the affirmative. By analogy the reasoning of the court in the *Shaffer* case, *supra*, would apply. If the income of a non-resident natural

person may be taxed, then undoubtedly the income of a foreign corporation earned within the state may also be taxed. In the Shaffer case the court said:

"In our system of government the states have general dominion, and, saving as restricted by particular provisions of the Federal Constitution, complete dominion over all persons, property and business transaction within their borders, they assume and perform the duty of preserving and protecting all such persons, property and business; and, in consequence, have the power normally pertaining to governments to result to all reasonable forms of taxation in order to defray the governmental expenses. Certainly they are not restricted to property taxation, nor to any particular form of excises. * * * That the state, from whose laws property and business and industry derive the protection and security without which production and gainful occupation would be impossible, is debarred from exacting a share of those gains in the form of income taxes for the support of the government, is a proposition so wholly inconsistent with fundamental principles as to be refuted by its mere statement. That it may tax the land but not the crop, the tree but not the fruit, the mine or well but not the product, the business but not the profit derived from it, is wholly inadmissible."

In this connection see also *Travis v. Yale & Town Mfg. Co.*, 40 Sup. Ct. Rep., 228, in which the income tax law of New York is considered, and *Michigan Central Railroad v. Powers*, 201 U. S. 245, which holds that there is no general supervision on the part of the nation over state taxation, and that in respect to the latter, the State has, speaking generally, the freedom of a sovereign both as to objects and methods.

Your third inquiry seems to be fully answered by the decision in the case of *U. S. Glue Co. v. Oak Creek*, supra, which holds that a State, in laying a general income tax upon the gains and profits of a corporation, may include in the computation the net income derived from transactions in interstate commerce, without contravening the commerce clause of the Constitution.

The answer to your last question obviously depends upon the nature of the provisions of the law imposing the tax. It is settled that a state may not directly burden interstate commerce, either by taxation or otherwise. But a tax that only indirectly affects the profits or returns from such commerce is not within the rule. The distinction between direct and indirect burdens is clearly set forth in the case of *U. S. Glue Co. v. Oak Creek*, supra. In that case the court, upon a review of previous cases, said:

"The difference in effect between a tax measured by gross receipts and one measured by net income, recognized by our decisions, is manifest and substantial, and it affords a convenient and workable basis of distinction between a direct and immediate burden upon the business affected and a charge that is only indirect and incidental. A tax upon gross receipts affects each transaction in proportion to its magnitude and irrespective of whether it is profitable or otherwise. Conceivably it may be sufficient to make the difference between profit and loss, or to so diminish the profit as to impede or discourage the conduct of the commerce. A tax upon the net profits has not the same deterrent effect, since it does not arise at all unless a gain is shown over and above expenses and losses, and the tax cannot be heavy unless the profits are large."

I wish simply to go over the report briefly and conclude my remarks on this subject.

"The General Assembly shall have power to levy taxes on all property in this State, uniform as to persons and property without discrimination."

This provision is substantially the same as in the present Constitution.

If the following provisions of the minority report now under consideration were incorporated in the new proposed Constitution, it is my opinion the objections to section one of the Present Constitution would be removed.

These provisions read as follows:

"Or the General Assembly shall have power to levy taxes without discrimination as to persons or property according to valuation on all real

estate and tangible personal property; and in lieu of all taxes on intangible personal property, the General Assembly shall have power (and in case no other taxes are levied on intangible personal property, the General Assembly shall) levy an income tax, at a rate to be determined by the General Assembly, on all incomes, subject to deductions hereinafter provided.

"In the event that the General Assembly, by virtue of the foregoing provision, levy an income tax in accordance therewith the General Assembly shall provide that tax-payer paying ad valorem taxes, shall return his entire income, including income arising out of property subject to ad valorem taxes, and that such tax-payer may deduct the amount of ad valorem taxes he is required to pay from that part of his income taxes computed on income arising out of property, upon which he is required to pay ad valorem taxes."

Mr. MILLER (Cook). Referring to this paragraph you just read am I correct in concluding that the only provision for an income tax is an income tax to take the place of the ad valorem tax on intangibles?

Mr. SHUEY (Coles). That is the purpose of it, yes.

Mr. MILLER (Cook). That is the only provision for an income tax in this substitute of yours?

Mr. SHUEY (Coles). If they substitute an income tax for an ad valorem tax on intangible property then it must be an income tax on all incomes with the right to deduct the ad valorem taxes from the income arising out of the property paying such tax.

Mr. MILLER (Cook). Then the words in the parenthesis are entirely unnecessary, are they not?

Mr. SHUEY (Coles). Perhaps they are.

Mr. MILLER (Cook). In other words the first two paragraphs give the right to the legislature to levy two kinds of taxes, one an ad valorem tax on all sorts of property, including intangibles, and next an ad valorem tax on everything but intangibles, and in lieu of a tax on intangibles an income tax on all property with deductions.

Mr. SHUEY (Coles). Yes, that is right.

Mr. JOHNSON (Bureau). I am somewhat in doubt as to what the proposal really is, but not having it before me, I wish to ask if I am right in this understanding according to your proposal. The income tax is never in any case an additional tax. Am I right? It never can be an additional tax?

Mr. SHUEY (Coles). Yes, sir.

Mr. JOHNSON (Bureau). But only a substitute.

Mr. SHUEY (Coles). Yes, sir.

Mr. JOHNSON (Bureau). So that under that, never in the history of the present Constitution if this should become a part of it could the General Assembly have the power or the right under conditions that might arise to levy an additional tax by way of income on ad valorem tax, never, that is your idea?

Mr. SHUEY (Coles). Yes, sir, the legislature would have the power to levy ad valorem taxes on all property, tangible or intangible, or could substitute the income tax for the ad valorem tax on intangible property.

Mr. JOHNSON (Bureau). My question is they never could do that?

Mr. SHUEY (Coles). You are right.

Mr. JOHNSON (Bureau). I understand that we must determine here and now it seems to me whether an income tax may be an additional tax or whether it is always a substitute tax and if we determine that question then we may proceed accordingly. You have determined here in your proposal, that it is never to be an additional tax but always a substitute. Am I right?

Mr. SHUEY (Coles). Well, now, if you are through with your question, I will try to answer. The purpose of this paragraph is to give the legislature power to continue an ad valorem tax on all kinds of property, tangible and intangible. If the legislature sees fit to cease to levy an ad valorem tax on intangible property then they must substitute for that ad valorem tax an income tax on all kinds of income.

Mr. JOHNSON (Bureau). Now as to having a substitutional income tax, they may, without restriction whatever, levy just as large a rate as they please to. Is that right? That is if the legislature shall determine what the rate shall be and then in the event this horde of anarchists we hear about, come down and insist that a half a mill tax should be levied on every income as a substitute for the ad valorem tax, then what does hinder your General Assembly from doing that precise thing? Is there anything which would hinder them from doing it?

Mr. SHUEY (Coles). That is merely a question of argument, I would like to present the case and then if you want to argue all right.

Mr. JOHNSON (Bureau). No, I am asking you to point it out, is there anything to prevent the General Assembly from levying a half mill tax?

Mr. SHUEY (Coles). In answer to your question I would say that is left wholly to the legislature.

Mr. JOHNSON (Bureau). Yes, that is right.

Mr. MILLER (Cook). I don't quite get an explanation, I understood you to answer Mr. Johnson that the income tax was always a substitute tax, but it would work out this way, wouldn't it, if the legislature saw fit not to tax by ad valorem tax intangibles, then there is an income tax and must be on all kinds of income including all kinds of property, so there might be an income tax which would exceed the ad valorem tax on real estate or tangible personal property, and therefore in lieu of the ad valorem tax on intangibles there would be an additional tax on other things than intangible.

Mr. SHUEY (Coles). Yes, that is right.

Mr. DUNLAP (Champaign). I would like to ask Mr. Shuey if, according to the provisions of this proposal, it would be impossible to levy an income tax on property intangible or tangible and on personal service unless they exempt intangible property from the ad valorem tax?

Mr. SHUEY (Coles). I think not.

Mr. DUNLAP (Champaign). Would they have that power, to levy a tax in addition to the ad valorem tax on personal property?

Mr. SHUEY (Coles). Not in addition to the ad valorem tax unless the substitute is made, and income from the property paying ad valorem tax exceeds such ad valorem tax.

Mr. DUNLAP (Champaign). Unless they are exempted from the tax they would not have the right to exempt the tax on tangible property.

Mr. SHUEY (Coles). No, if they are going to substitute the income tax for the ad valorem tax on intangible property, that is to apply to all income with right to deduct from the income tax the ad valorem tax arising out of the property paying the ad valorem tax.

Mr. FIFER (McLean). Your proposition would pass on to the legislature entirely to say what tax shall be levied. I haven't your proposition before me but from the reading I understood there is a provision in it somewhere that the income shall be substantial, am I right?

Mr. SHUEY (Coles). That is right.

Mr. FIFER (McLean). Just read that.

Mr. SHUEY (Coles). I had not got down to that.

Mr. FIFER (McLean). You intended that as a limitation did you not on the General Assembly prohibiting them from imposing some inconsequential income tax.

Mr. SHUEY (Coles). Yes, that is the purpose of it.

Mr. BARR (Will). I am referring to the provision that the delegate from McLean referred to—"the income tax shall be a substantial tax and shall approximate the ad valorem tax"—that is the language you referred to.

Mr. SHUEY (Coles). Yes, sir.

Mr. BARR (Will). This question occurs to me in reading these two lines, the ad valorem tax rate is different all over the State. The rate may be different in every taxing district in this State, may it not?

Mr. SHUEY (Coles). Yes, sir.

Mr. BARR (Will). For instance my recollection is in the City of Joliet the rate is about seven on fifty per cent of the actual valuation. Out in the

country districts of my county, or the county in which I live, the rate is about three or three and a half on fifty per cent, and that condition now perhaps exists all over the State. How would you be able to provide an income tax that would approximate the ad valorem rate where the ad valorem rate changes so completely in the different taxing districts of the State?

Mr. SHUEY (Coles). Well, Mr. Barr, I had thought of that matter, and what you say is true. It would only be an indication to the legislature that the people in adopting the Constitution had in mind that it should be a substantial tax and approach the ad valorem tax burden.

Mr. BARR (Will). Your idea would be that the income tax rate should be uniform throughout the State?

Mr. SHUEY (Coles). Yes, I think it should.

Mr. MILLER (Cook). Wouldn't that question also arise in this, there is a provision here for the graduated income tax, one to six, which would it be if the legislature should see fit to adopt that graduation one to six, which rate would it be, which would approximate the ad valorem tax burden?

Mr. SHUEY (Coles). Well, the idea would be that the entire tax taken as a whole if graduated would approximate the ad valorem tax burden.

Mr. KERRICK (McLean). Under your provisions there as read it means as I take it that it is intended to provide that the burden of taxation shall be borne upon a basis of substantial equality between the owners of tangible property and intangible property, the burden of taxation.

Mr. SHUEY (Coles). The word "substantial" as used in this paragraph.

Mr. KERRICK (McLean). I will ask a further question suggested by the delegate from Will. Does it make any difference that the tax rate in the different taxing districts normally and necessarily because of the very needs are not the same, much higher in some and lower in others? Your basis would never be a matter for each district to tax by any universal rate, but according to that principle.

Mr. SHUEY (Coles). I think the income tax should be a general tax and should apply to the whole State and be uniform throughout the State.

Mr. KERRICK (McLean). The same exact rate or grade for any locality, wouldn't that be substantially the right thing, that is easily a matter which would be worked out by computation.

Mr. SHUEY (Coles). That would have to be worked out by the legislature.

Mr. KERRICK (McLean). I have not examined the phraseology under your foundation principle which is intended to result in a practical equalization or division of the burden of taxation. My district being in the city the rate would exceed three per cent, and applying the ad valorem tax, and in another locality it might not be but two per cent. In following that out, the legislature in spreading the tax following that principle, wouldn't that principle be violated in providing a rate in the locality for three per cent taxation in proportion to that, and then a rate for a two per cent taxation, in proportion to the tax of two per cent in a given district? I think that is easily enough constructed so the question asked by the delegate from Will is not one which would make any difference.

Mr. BARR (Will). Is it your idea, Judge, under your report that there would be a different rate, in so far as it applied to the tax on intangible property, for every taxing district in the State of Illinois.

Mr. SHUEY (Coles). It is not.

Mr. BARR (Will). Your idea is to have a uniform tax rate throughout the State?

Mr. SHUEY (Coles). Yes, sir, that is my idea. This report also contains the following provision:

"The General Assembly shall have power to impose an ad valorem tax on intangible property within this State owned by any person or corporation, not paying income taxes in this State."

The next provision is put in here because of the contract with the Illinois Central Railroad or any other contract which may be made of similar character.

"In the event that the General Assembly by virtue of the foregoing provision levy an income tax in accordance therewith, the General Assembly shall provide that the tax payer paying ad valorem taxes shall return his entire income including income arising out of property subject to ad valorem taxes he is required to pay from that part of his income taxes computed on income arising out of property upon which he is required to pay ad valorem taxes."

In that case of course the property that the income tax will be paid out of would be say income arising from branch roads of the Illinois Central Railroad from which the State does not receive a part of the gross income. They would contribute to the payment of an income tax, if it exceeded the ad valorem tax.

Mr. JOHNSON (Bureau). What is your understanding of your proposal, does a citizen of this State, who owns non-resident real estate, and who pays an ad valorem tax thereon, would he be entitled to that deduction?

Mr. SHUEY (Coles). I think it is very doubtful if he would.

Mr. JOHNSON (Bureau). No, but under the construction here.

Mr. SHUEY (Coles). I would say that he would not be.

Mr. JOHNSON (Bureau). What language is there in that now that would deny him that right?

Mr. SHUEY (Coles). I do not think he would have the right under the construction that would be placed upon it by the courts.

Mr. JOHNSON (Bureau). Do you think he ought to have that privilege?

Mr. SHUEY (Coles). Every man in this position is situated in the peculiar way in which he has placed himself, and there is a difference of opinion as to whether a person should have a right to deduct his ad valorem tax paid in another state from the income arising out of such property, if he is a resident of Illinois. However, this could be amended so as to give this right if the Committee of the Whole thought best to do so. Wouldn't the objections you speak of, Mr. Johnson, also apply to your majority report?

Mr. JOHNSON (Bureau). No, sir, we have the exact language, "persons paying ad valorem tax without property in this State, (that is our proposal) shall be entitled to deduct it from the tax on income."

Mr. SHUEY (Coles). That is paying ad valorem taxes of this State?

Mr. JOHNSON (Bureau). Yes.

Mr. SHUEY (Coles). Then that would not apply to an owner of land outside of the State?

Mr. JOHNSON (Bureau). No, sir.

Mr. SHUEY (Coles). Of course there would be no doubt but that he would have a right to deduct his ad valorem tax on real estate in this State from the income arising therefrom, if the income exceeded the ad valorem tax.

Mr. JOHNSON (Bureau). Wouldn't he have the same right if he owned land up in Dakota or land down in Texas or over in Mexico?

Mr. SHUEY (Coles). I think that is very doubtful under this proposal as I have already stated.

Mr. JOHNSON (Bureau). Do you think he ought to have the right?

Mr. SHUEY (Coles). Well, there are reasons for and against it.

Mr. JOHNSON (Bureau). Do you think he ought to have that right?

Mr. SHUEY (Coles). If I did I would have put it in here.

Mr. JOHNSON (Bureau). Don't you think we ought to determine the question in this proposal, under this proposal? He undoubtedly has the right in my judgment, if he owned land in Mexico and claimed ad valorem tax on it and lived here and listed it and paid an ad valorem tax on it, he would have a right to that deduction. Now, do you think he should have that right?

Mr. SHUEY (Coles). I have already expressed my opinion on that.

Mr. JOHNSON (Bureau). Well, in writing a Constitution, we ought to come to some conclusion, hadn't we, on those subjects?

Mr. SHUEY (Coles). I understood you to say that your proposal permits deduction of ad valorem tax from income tax arising from property paying ad valorem tax within this State.

Mr. SHUEY (Coles). But the same difficulty would arise in your case, wouldn't it?

Mr. JOHNSON (Bureau). No.

Mr. SHUEY (Coles). Do you permit the deduction of an ad valorem tax in a foreign state in your proposal.

Mr. JOHNSON (Bureau). No, sir, we do not.

Mr. SHUEY (Coles). I don't think under this provision there could be a deduction.

Mr. JOHNSON (Bureau). I do.

Mr. SHUEY (Coles). There is nothing in this proposal that would permit the deduction.

Mr. JOHNSON (Bureau). But you have not answered my question, do you think there ought to be a deduction?

Mr. SHUEY (Coles). I do not think there ought to be.

Mr. JOHNSON (Bureau). Why don't you say so in your proposal?

Mr. SHUEY (Coles). I didn't think it necessary to put it in the proposal, but it could be added by amendment if thought best by the committee.

Mr. FIFER (McLean). Are you familiar with the majority report on that same question, with respects to personal property? It was brought by a question by myself to the chairman of the committee wherein it clearly appears that a person might have personal property on which he pays ad valorem taxes, on that personal property in the foreign state, and yet he would pay an income under the provisions of the majority report on the same property, so he pays double taxation. This question as propounded, propounds exactly the same condition that except that that one is personal property and the other is real estate.

CHAIRMAN WHITMAN. The Chair rules that there may not be any discussion between certain members on the floor. If you want to ask a question all right.

Mr. SHUEY (Coles). I wish to make a motion to adopt this substitute, in lieu of Section One of the majority report.

Mr. DUPUY (Cook). It is with some hesitation, I rise to speak to you on this question at all because it was told to you yesterday there are five hundred wicked millionaires and multi-millionaires that live in the district which I am glad to represent; but as I heard the discussion proceed and I heard the statement made that the present revenue law was a school of perjury; that every man in this State of Illinois is a liar and a perjurer when he comes to report or omits to report his personal property for taxation, I thought of those words:

"Think ye that those eighteen, on whom the tower of Siloam fell, and slew them, were sinners above all of the men who dwelt in Jerusalem? I tell you nay, and except ye repent ye shall all likewise perish."

The words seemed to me somewhat applicable to the present situation. I don't know whether my views are contribution to this discussion or not. They are satisfactory to me. They are fairly well defined. I am opposed to section 1 of the minority report, and have several, to my mind, substantial and good reasons therefor.

In the first place when in the legislative article of the Constitution, we have said that the legislative power is vested in the General Assembly, we have said every word that we need to say on the subject of taxation to enable that body to exercise full, complete and absolute power over that subject.

We need say not one single word more, unless we want to put in words of limitation and prescribe rules of action which they may not overstep.

Now, the language in the first section of this majority report is almost entirely permissive. The question was asked yesterday of the honor-

able chairman of that committee what restrictions were contained in the first section of this report. He pointed out about four I think of the exclusions. I don't know how many, but there were very few and they were very inadequate to my thinking as restrictions.

The language of this section is permissive. The legislature may do this, the legislature may do the other thing and may do many things that are pointed out. Those things are permissive—

Mr. REVELL (Cook). May I ask you a question?

Mr. DUPUY (Cook). Not at this time, please, I don't want to be interrupted at this time but I will answer you later on.

Mr. REVELL (Cook). Aren't we filling up time that was to be taken on material things?

CHAIRMAN WHITMAN. Proceed.

Mr. DUPUY (Cook). I am not very much given to addressing this body and I had the misfortune early to fail to make myself plain, so one gentleman put to me the question as to whether I was for the motion or against it or whether I was just talking to hear myself make a speech. It is painful for me to make a speech and there is only one thing more so. That is to listen to some of the speeches I have had to hear. Both things are my duty, and I intend to discharge my duty to the best of my ability in this Convention.

I have no interest in this subject; none whatever except the interest of the people of the State of Illinois. Not a single one of these wicked millionaires in my district has confided to me directly or indirectly how he wants this proposition framed up, so I am trying to give you only my conviction and judgment on this subject.

I am very much in favor of a system which could be outlined in this way, and it is largely outlined, it is the pending substitute proposal, namely—and this same thought I presented before the committee when I had the honor to speak to them on the subject—I want to see an ad valorem tax such as we have now, with the principle of uniformity and equality observed, I want a tax imposed on every dollar of tangible property in the State of Illinois. That property is here, is easily seen, and easily obtained. Real estate has no escape, no possibility of escape. It can be discovered, listed, put on the books and it ought to be done. The same thing is true of personal property. It is not difficult to discover it, it cannot get away to any considerable extent.

But, when we come to the intangible property, the situation is entirely different. It has been a failure for fifty years, the system has. It has resulted, as you have said over and over again, in prevarication and perjury by the citizens. No good man likes to conceal his property from taxation. No honest man wants to do it, yet if a man comes in and makes an honest return of his credits, if he has any considerable amount of it, his property is confiscated. He has to pay on the rate of one hundred per cent valuation and the rate is so high it deprives him of one-half of his income. The poor widow, that has been referred to many times, and of all of the owners of this class of property, she is the most unfortunate because all of the assets of estates have to go through the probate court and there is no longer any chance to conceal any intangible property which belongs to an estate, so the result is for any of you men who leave provisions for your family, consisting of intangible property, mortgages and things of that kind, it must go on the assessor's list, and if that property is yielding six per cent, three per cent is taken for taxation, in the first instance, taken on one-half of the income from the property to pay the taxes on it, year by year. You know that the property was subject to an income tax, and that when it was taxed it would be on an equivalent rate to fifty per cent of the income. Nobody in the State of Illinois believes there will ever be anything approximating anywhere near a fifty per cent rate on intangible property. The most anybody has talked about has been twelve per cent or six times the lowest rate, that presumed would be two per cent. Now, because this system is a failure, has been a failure and will be a failure in the future, I am opposed to the

scheme embodied in the substitute offered yesterday, because it is only a continuation of the difficulties. There is nothing the matter with the present Constitution on the subject of taxing this class of property except the paramount difficulty that it will not work. It has been a failure, it cannot be done. I would not—and I agree with those gentlemen who so expressed themselves, we were sent here charged with the most important duty in our lives—to devise a better system of taxation—and I believe that will be solved by an ad valorem tax on all tangible property, not a permitted, but a compulsory system of income tax on intangible property, that plan to be put into operation by this Convention and not left to the legislature.

Now, I do not have any distrust of the general good intention of the legislature. I am very much impressed with this idea; the greater uncertainty you leave with the legislature as to which plan or what principle or what class of property shall be subject to taxation, the greater the difficulties they will have, the greater opportunity there is for oppression and the greater possibility there is for failures by the legislature; and the thing ought not to be done.

We are here to fix a permanent rule for the levy of taxes. We should do it by the establishment of principles. This revenue article if it is good for anything, or will be good for anything when it leaves this Convention, will have its full merits embraced in these restrictions placed on the legislature, and these principles that we lay down for the administration of the revenue and revenue laws of Illinois.

Now, I would like to see a compulsory system of income tax adopted by this Convention put immediately into force, to apply to all intangible property. I also agree, of course, that whatever taxes have been paid, under the ad valorem tax on tangible property should be deducted from that income. No man should be taxed twice. All these inequalities should be smoothed out and I think that that can be done. I don't think there is any question about it.

I think that is practical and I want to say that I don't care to discuss this in detail, I don't care to undertake to answer all of the difficulties that can be made. They are many and substantial, and many of them have already been indicated.

Mr. HULL (Cook). Are you for the minority report or are you for the majority report?

Mr. DUPUY (Cook). I am for the minority report substitute. I said that definitely at the outset, I am opposed to the minority report.

Mr. HULL (Cook). I thought that to some of the provisions of the minority report you were objecting.

Mr. DUPUY (Cook). That may possibly be but if they are in there, I will ask for a substitute. What is it you wanted to ask me, Mr. Revell?

Mr. REVELL (Cook). I was going to ask you the same question put to you by Mr. Hull.

Mr. JOHNSON (Bureau). You said that the Constitution should consist of the restrictions that are put on the General Assembly.

Mr. DUPUY (Cook). I feel so, definitely feel so.

Mr. JOHNSON (Bureau). Referring to the Constitution of 1870 which put the ad valorem tax on, that is the effort of that Constitution—

Mr. DUPUY (Cook). Did I fail to make myself plain? If so, I want to try it again. This revenue article is utterly worthless, it has no place in the Constitution at all as a Constitutional provision, if it is all simply left to the legislature, because that is all granted by the grant of power to make laws.

Under that grant to make laws for the State, the General Assembly can do what it pleases on the subject of taxation. It can impose taxes on all classes on all property or not. It can impose classes on all tangibles or intangibles, all occupations, can tax all classes of property conceivable in the State, without let or hindrance. Nobody can say it nay. If you don't want to put any restrictions on the legislature and want to turn this all

over to them you are giving them a system that will be changed from time to time, there will be no stability to it.

Every legislature will be asked to install a new system and we will be in a constant state of turmoil. All classes of industry, farmers, banks, railroads, and I don't know what else, all classes of every kind will be here to get a new system inaugurated.

I am not in favor of having that system inaugurated. I said it before and I say it again.

The value of the revenue article as such in the Constitution is to lay down general principles, and provide restrictions as to the methods of taxation to be laid on the people. The first of these is equality and uniformity. The tax should be substantially uniform. That has been in our Constitution for one hundred years and I am not willing to depart from it, as I heard yesterday, because it is old. "Thou shalt not steal" is much older than that. This is the principle of decency and righteousness between man and man. The tax should be uniform and should be levied with some principle of equality.

Mr. GALE (Knox). As I take it you were not pleased with the report of the majority, and do you think that these things which you would like to see carried and put into effect by this body here are carried out and put into effect by the majority report which you now have?

Mr. DUPUY (Cook). Probably not, Mr. Gale, but if they are not I want to see it amended.

Mr. GALE (Knox). Don't you think it is your duty to this Convention and the rest of the people of the State for you to present such a section one for the Convention?

Mr. DUPUY (Cook). I don't know that I am on cross-examination here.

Mr. GALE (Knox). I did not mean that as a cross-examination, I simply meant that as a suggestion.

Mr. DUPUY (Cook). On the request of the Revenue Committee I appeared before the committee and outlined the plan. I am not a member of the committee, but I am not only willing but glad to help make the very best revenue article possible. I don't care a bit whether it comes from the majority or minority. I don't believe any member of the committee or the Convention does. What the members of this Convention want, I believe, without exception, is the best revenue article that we can put out.

Mr. GALE (Knox). I think that is true, I for one would be exceedingly glad to hear your suggestions, but I would like to have it put in such language as to carry them out. I tried to do that in the majority report, but with the majority report before us it seems that we have failed.

Mr. DUPUY (Cook). Let me tell you in regard to one or two things; first, I want a compulsory system of tax according to income, levied, now, by the action of this Convention on intangible property—

Mr. GALE (Knox). I don't quite understand—that is not your fault, it is mine—but I don't understand when you say a compulsory system of income whether you mean by that that this Convention should fix the rate on an income tax?

Mr. DUPUY (Cook). Not at all.

Mr. GALE (Knox). You do not think the majority report goes far enough when it permits an income tax to be levied?

Mr. DUPUY (Cook). That provision is worth nothing, I would strike it out as not being proper in the Constitution, in the first place. Secondly, you make it optional with the legislature to adopt that plan or not adopt it. That I don't agree with. I think this Convention should say what the system of taxation shall be, and prescribe a compulsory system, operating from now on. Further than that it has been said that we ought to have some flexibility to this thing. I think the chairman of the committee brought that out somewhat in his remarks, that we did not want to tie the legislature to a particular system that might need modification as the years go by. No one is more in favor of keeping step with modern progress than I am, I believe in it, and I think many things need modification today, in business, financial

science, because the conditions are so different from what they were when our Constitution was framed.

That flexibility I would like to see provided in this sort of way, this system proposed in the minority report adopted and to remain in effect for a period long enough to give it trial, say for five years or ten years, but a compulsory operation under this system for a certain length of time—I will say ten years, and at the end of that time if it is found it doesn't work well, that it was not coming up to the expectations of those who proposed it, I would leave it to the legislature to adopt some other particular system that you might name. I have no objection to taking the majority report of the committee as it stands, as much as I dislike the idea of classification. I feel that is a step in the wrong direction entirely, but as much as I dislike the proposition of classification I don't know but what I should be willing to vote for the substitution of that plan embodied in article one of the majority report after the lapse of ten years, provided this is tried out in the meantime.

I sincerely believe, however, after adopting this plan and after putting it into effect once, and trying it out, that they would not go back to the other plan or any substantially different plan. That is my belief about it. I think that is logical in principle; I am against the adoption of this report and I hope to see it defeated.

Mr. DAVIS (Cook). I am informed that the President of the Convention desires to present a report after the noon recess and for that reason I make the motion that the committee now rise and report progress, so that the Committee of the Whole will be in session after the noon adjournment.

Whereupon the Committee of the Whole reported progress and asked leave to sit again.

PRESIDENT WOODWARD. I offer the following resolution for the consideration of the members of the Convention:

COMMITTEE REPORT.

Your Committee on Rules and Procedure recommends that upon the convening of the Convention tomorrow morning at nine o'clock, appropriate exercises in commemoration of Armistice Day be held and that General Davis and Captain Carlstrom be invited to address the Convention at that time.

Your committee further recommends that the President send invitations to the Grand Army of the Republic, Spanish American War Veterans, the Woman's Relief Corps, the American Legion, the Daughters of the American Revolution, the Chamber of Commerce of Springfield and all elective officers of the Executive Department of the State whose offices are in Springfield, to attend the exercises, and that, through the public press, an invitation be extended to the public generally to be present at such exercises.

Mr. DUNLAP (Champaign). I would like to know about the amount of time that would be consumed, whether the entire day or not.

PRESIDENT WOODWARD. The Chair has decided that the time consumed will not exceed one hour.

(Adopted.)

Whereupon adjournment was taken to two o'clock the same day.

2:00 O'CLOCK P. M.

The Convention met pursuant to recess.

PRESIDENT WOODWARD. The Convention will resolve itself into the Committee of the Whole for the further consideration of the report of the Committee on Revenue and Finance.

Whereupon the Convention resolves itself into a Committee of the Whole, Delegate Whitman presiding.

CHAIRMAN WHITMAN. The question before the committee is the substitution of the report of Judge Shuey as amended in Proposal 381 for section one of the majority report.

Mr. FIFER (McLean). I would like to say a few words and declare my position on the pending question.

The revenue provision of the Constitution of 1870 was designed to make every property holder in the State pay a tax in proportion to the value of his property.

The design of that provision was eminently just and fair, but in its application to the practical affairs of life it was found to be unworkable. That seems to be admitted by everybody. I was in hopes when this Convention met that we as sensible men could come to an agreement as to how that evil should be corrected. There is scarcely any dispute in regard to the kind of property that has been carrying the tax burden of Illinois for the past fifty years.

The distinguished chairman of the Revenue Committee has figures showing that real estate for the year 1918 was paying nearly seventy per cent of the tax burden of our State. That the tangible personal property was paying twenty-two per cent and a fraction, and now the intangible personal property is paying but a fraction more than seven per cent, and, then, by figures he proceeded to show that land values in the State of Illinois were assessed far below their actual value. That was unnecessary and useless, when he showed that the real estate of Illinois was carrying practically the entire tax burden. If the real estate of Illinois was paying all of the taxes it would not make one particle of difference to the payer whether it was assessed at a thousand dollars an acre or one dollar an acre or ten dollars an acre, it is paying the taxes. Now this was an evil and it seems to me that of all the men in Illinois, those representing the intangible property are the last that should be heard to complain in this Convention.

Now, the evil being admitted, what is the remedy? The majority report sought to remedy the evil; but they pointed their guns in the wrong direction, they provide in section one of their report that all property, real, tangible and intangible, shall be assessed uniformly. Under that limitation they bring intangible property and place it side by side with real property, and tangible personal property, and then they take intangible property out from that limitation by the "but." They say that the General Assembly shall have power to do so and so, and there I thought my friend from Chicago who made such a splendid speech in a magnificent spirit, fell down just a little bit. He told this committee that the first section of the original enactment passed on to the General Assembly all of the legislative powers that the people have in their original capacity, and that is true, and if we stop at that and say nothing more, and then go home, the legislature could meet and do exactly as they pleased. They could tax one man worth one hundred thousand dollars twice as much as they taxed his neighbor worth the same amount. They could wipe out or reduce taxes, or refuse to enact a bill of rights to protect life and liberty. The bridge would be off, and they could do exactly as they pleased, but here is where my friend made his mistake, he said that the provision of the majority report said that the legislature might enact an income tax.

In section one of the report they placed intangible property under a limitation and by a "but"—but notwithstanding the foregoing—that is the plain meaning of it, the General Assembly shall have power to levy an income tax.

Now, instead of placing a limitation upon intangible property, the General Assembly would have ample power to pass an income tax on it, but that is immaterial, the point is that entire provision for an income tax is only made permissive, and may provide that the tax may be in any form and at any rate that the General Assembly may see fit to impose.

My good friend from Bureau said that he would be perfectly willing to grant absolute and complete power to the legislature over this taxing ques-

tion. If he did that, then if he and I had an equal amount of property I could be taxed twice as much by the law enacted by the General Assembly as he is taxed.

Mr. JOHNSON (Bureau). You have misquoted me, Governor.

Mr. FIFER (McLean). Well, if I did, I am glad to be corrected, but for one I am not willing to allow this majority report to pass on to the General Assembly complete and absolute power to enact a law providing for an income tax at one-tenth of a mill, if they see fit to do so, and in any manner that they may please. The most important object of a Constitution is to protect life, liberty and property, and in the Convention that framed the Federal Constitution, composed as my friend from Galesburg has said of the greatest assembly of men that ever breathed on this earth, they discuss that. Governor Morris, the peer, at least, of Hamilton, and Madison contended in that Convention that mankind throughout the ages has placed property above liberty, that man gave up his liberty, his tribal state to enter organized society in order that he might accumulate property, and have that property protected by law.

For one I am unwilling to commit to an irresponsible and vacillating and changing General Assembly the absolute power of taxation. The accumulation of property seems to be the paramount object of life, and I do not feel the least afraid that this body of men will commit to the hands of the General Assembly absolute power of levying taxation. It is the power to destroy as the courts have said over and over again.

Now what is the remedy then, that is proposed by the majority of the committees? It provides that so far as tangible property is concerned, a tax shall be levied uniformly, and according to value, and then it gets down to intangible property and the bridle is taken off, the horse then is permitted to go as he pleases, and then a little further on it begins to impose limitations and restrictions. Now is there not some better way, some safer way, by which these evils that have arisen in the application of the revenue provision appearing in the Constitution of 1870 can be avoided?

I admit that there are some inequalities, and I think I can tell the members of this committee where the evil largely arises. I gave you an instance yesterday in regard to two citizens, one who owned a little home—stead worth twenty-five hundred dollars, and that was all she owned, and her neighbor living by her side owned intangible property worth the same amount, twenty-five hundred dollars, and that was all she owned. Now, has anybody given a reason, a valid reason why the one should pay more taxes than the other? I defy anyone to give a sufficient reason, but I think I have my knife on the nerve of the situation when I say this, when the tax assessor comes around the little cottage is valued in his discretion, he can shrink the value and generally does, but when he comes to assess the woman having twenty-five hundred dollars in intangible property, the question is asked is it bankable, is the maker solvent? And if the answer is in the affirmative it goes down at twenty-five hundred dollars.

Now, it has always been my belief and it is my belief now, that intangible property being owned by the active man, the brainy man, if you please, is more profitable than the realty. You take farm lands, it was told us from that desk day after day by the farmers of Illinois, men whom we knew to be the head of the Farmers' Associations, that real estate was not paying more than two per cent on its investment. Nobody pretended to dispute the assertion. Now, the point is that if this evil that has been pointed out can be remedied, and this intangible property which constitutes one-half of the wealth of Illinois will pay fifty per cent of the taxes instead of seven per cent, then the burden of taxation will become very light for everybody. A load under which one man will stagger, two will carry with ease and ten will feel not at all.

Now, our object here as sensible, patriotic men, should be to find some remedy for this evil, and not in trying to avoid one evil, bring on ourselves even a greater evil, which I believe this majority report, if adopted, would lead us into.

Mr. REVELL (Cook). I would like to ask the Governor if he has a specific remedy that he would substitute in place of all these evils?

CHAIRMAN WHITMAN. And may the Chair also suggest that the question before the House is the substitution of Judge Shuey's report for the majority report.

Mr. FIFER (McLean). I will answer the gentleman from the literature sent out in 1916 to secure the adoption of the then pending amendment. It was argued that it would reduce taxes on tangible property and that intangible property would then leap forth from its hiding place and be assessed. Now I don't believe that. In my view a man that will hide his property to save ten dollars will hide it to avoid the payment of one dollar, and the reduction of taxation on intangible property will not meet the difficulty.

Some few men would possibly bring forth from its hiding places this intangible property, but that would be an injustice to the tax skulkers who escape the one dollar tax—some other remedy must be provided and that remedy should not be committed to the hands of the General Assembly. It is the province of this great body sent here by the people of Illinois to enact a provision that will insure the taxation of all property on a fair basis.

I have not had the time to go into the different States and look up their enactments and see which of them have adopted classification and what provisions in detail they have made for the raising of their respective revenues, but I know that there are some fundamental principles that cannot be changed without danger to the whole system of taxation.

The gentlemen say that the Revenue Act, our present one, is one hundred years old. Magna Charta, the greatest instrument that was ever constructed by the wit of man, not excepting the Federal Constitution, is nearly one thousand years old.

You sometimes reach the absolute truth. The philosophers of the world have always been looking for the absolute truth. In some instances they have found it. They know that the three angles of a triangle are equal to two right angles. There they placed their foot on the eternal everlasting truth. It was true in the beginning, it is true today, and it will be true throughout all of the years to come.

When we turn to the fundamental law of Illinois as made in 1870 and find that revenue shall be raised by taxation, uniform, and that every man shall be required to pay taxes according to the value of his property, we are standing upon an everlasting and eternal rock of justice and right, but as I have said, it turned out faulty in its application for the reason that intangible property escaped taxation. It did not militate against the purpose, it did not militate against the ultimate object of the Constitution of 1870 that intangible property escaped taxation. Every man who can reason, who has a proper sense of justice, knows the object in view was everlasting and eternally just, but by this little latitude given to the assessors who place the valuation, it has come to pass that the real estate of this great State is paying eighty per cent of the taxes—I am using my own figures that came to me by men who pretend to know—while tangible personal property pays nearly all of the remainder. The intangible property is paying only seven per cent when it ought to pay fifty per cent.

Now the proposition that is offered as a substitute for the majority report provides that the General Assembly not "may" but "shall" provide for an income tax. When this intangible property is discovered I don't care what form of tax is provided if it pays its equal proportion of the tax burden. My own view is that an income tax is the only way by which intangible property can be reached and therefore I favor the substitute.

Mr. REVELL (Cook). Will the gentleman yield to a question?

Mr. FIFER (McLean). I very cheerfully do so.

Mr. REVELL (Cook). You have made the direct statement that in your opinion taxes should be fifty-fifty so far as intangible property and tangible property are concerned. Can you suggest any remedy which, with justice, would bring that about?

Mr. FIFER (McLean). Why, I have just proceeded to do that.

Mr. REVELL (Cook). Well, I was hoping to hear something on that.

Mr. FIFER (McLean). I am very sorry that I have been so inapt in my language and argument that my friend could not understand its drift.

Mr. REVELL (Cook). I apologize.

Mr. FIFER (McLean). I was coming to that point. The old way of discovering this intangible property has failed, and we must adopt other means, and that means, as I see it, must be an income tax.

As to this majority report it has made it evident to my mind, judging from the literature which has been put out in its support by its friends in the last ten years, means that intangible property is to be assessed at a lower rate of taxation, on the theory that the owner will not then hide it. I told you that that would not meet the difficulty in my judgment. If a man will hide his property to save ten dollars, he will do so to save one dollar. So, let us abandon that. Then what is left? Now, I am willing to adopt the method of assessing intangible property in the old way if there is any feasible way pointed out by which it can be discovered, but we know the old way has failed. Now it seems to me that the one remaining method is the one offered by the member from Cole, the pending measure which is offered as a substitute—

CHAIRMAN WHITMAN. Substitute?

Mr. FIFER (McLean). Yes, for the majority report of the committee. We have the encouraging fact that the Federal Government has been enabled to discover these incomes and discover them very successfully. It is the only form of taxation except the tax on tobacco and whiskey, and the tariff by which the government derives its revenue. So whether this will make the discovery or not it is my belief that it will, but we have tried the other and the gentlemen say it is a failure, and yet they provide for trying it over again. I don't know the purpose of those signing the majority report, but it is my belief based on the literature that has been scattered broadcast over Illinois by the men who were behind this, that it is their purpose to tax intangible property at a less rate and I am not objecting to what they have done, or how much literature they have scattered, it makes no difference on this floor who is behind a proposition, whether it is wealth or poverty, honesty or dishonesty. The question is presented, and is it right or wrong, and that is the one question we can deal with on this floor or have any right to deal with. Now we have in the substitute a carefully devised plan enactment with some reasonable limitation imposed on the legislature and it is worthy of a trial, and in my judgment it will succeed. I may be wrong, I am not infallible, but how are you going to correct this evil that gentlemen speak of?

My friend from Bureau as I understood him said he wanted to take the bridle off and give all power to the General Assembly. Why, gentlemen, to do that you might as well take the bridle off as to everything else and let the General Assembly do as it pleases, and we had better adjourn and go home if that is to be the conclusion of this Convention.

Now, there are other things that I might say in regard to this, but I have no desire to protract this discussion to any unusual length. Now, gentlemen, as men who were sent here by a sovereign people, let us try to get together, no one seeking an advantage over another, to benefit one kind of property or injure another, but let us stand together and make some kind of an arrangement by which all of the interests of our people can be subserved, and then we shall go home and Illinois, the State of great people, will continue to be as it is now, the happiest, freest and greatest people under the sun today.

Mr. DAVIS (Cook). May I preface the few remarks which shall be mine to say that it is not my intention to urge the adoption of one report or another or urge one principle of taxation or another, but it is my purpose to suggest an orderly method of procedure which will bring to us an understanding, followed by an action as to the sort of a revenue article which we want. The minority reports and their presentation, the debate which has

followed, the questions and the answers given, all go to the extent of having brought to our attention certain features of a taxing system, which have been discussed from time to time, but the trouble remains after having spent a day and a half we have not as yet had presented to us a single concrete example of a taxing system, and of the advantages or disadvantages of such a system pointed out.

I am not finding any fault, for the fact of the matter is that the procedure which is ours in the Committee of the Whole has been a sound procedure.

The procedure before the Committee on Revenue, after the initial steps, consisted of considering all of the proposals before the committee, considerable time being spent in giving thought to the effect of certain words and phrases and sections which were a part of those proposals, and as the result of that sort of consideration some notion was had by members of the committee of the possibility of different ideas which were backed by those who presented the proposals. Then the committee decided the only way in which to make progress was to try and get a common understanding of the things involved, of the ideas of the members of the committee regarding such things and when some sort of an understanding was had as to that, we proceeded to reduce to words the ideas on which the majority at least agreed.

I am urging at this stage of the proceeding that we stop presenting substitute after substitute and spend time in discussing the meaning and effect of one certain substitute. I propose that we do away with all substitutes and the majority report if you please be used as the basis of understanding as to what we want. Let sentence after sentence be read and each sentence discussed and a common understanding had as to the effect of each sentence and the common desire of the majority ascertained, and then reduced to words, and we have no difficulty getting words. If we do not like the words of the majority report we will have another set of words used, through the Committee on Phraseology and Style. That committee is still in session, and if there is a result of our deliberations, that committee can understand what we want. Should we perchance make an error on the place of words, that committee will come to our rescue and we will have another chance to discuss our particular line of action, in the Committee of the Whole.

So, Mr. Chairman, let me attempt to state to you very briefly what was intended by the majority report of the committee. It was apparent from the outset, and there was an unanimity of opinion on it, that while theoretically we might delegate to the legislature the power of creating by law a system of taxation, that practically, and considering the attitude of the members of the Convention, it will be necessary to place some limitation on the powers of the legislature in this Constitution on which we are working. At the same time there was an unanimity of opinion on the proposition that the limitations which the Constitution of 1870 placed in the Revenue Article on the powers of the legislature, were so binding and so circumscribing that the legislature had found itself unable to meet the changing conditions and it found it impossible to remedy the conditions complained of in all sections of the State.

The question then naturally arose what shall be the limitation placed upon the power of the legislature, and the extent to which they shall differ from the limitations which the Constitution of 1870 contained. And, before arriving at a conclusion on that main question we began asking ourselves the question as to what we would be willing to do, and as to what we would do if we were in the position of the General Assembly, what sort of a taxing system would we devise, and with that as a basis we felt that we could get on in a more certain way in prescribing the limitations of the General Assembly. The subject of taxation immediately raises the question of the division of property to be taxed,—and I am not talking about classification,—naturally every provision of every proposal was given the test as applied to the three classes of property, real property, personal prop-

erty of a tangible character and personal property of an intangible character, and any system of taxation which may be evolved, would have to be given the test as applied to those three classes of property. The division is not artificial, it exists. So we said let us find out what sort of a taxing system we want as applicable to real property. Based upon the experience that we have had, we all felt that the method of taxing real estate, the method that was used, knowing the particular amount to be raised, on the valuation of that property, has been quite successful. There was not much debate on that.

Then we came to personal property of a tangible character and the answer to the question of how the test would be applied to that was this, has the present system been successful in getting the proper share of revenue from tangible personal property. And when applied also to intangible personal property the answer was unanimous that it has been most unsuccessful and has been a failure. Now then, we said that we would try in our report to present the limitations which by themselves would suggest a system which might be tested out as applicable to these three different classes of property. Now we have had some regard for the traditions of the past, we have had some regard for the fundamental principles of taxation, and we started out with the general statement that property shall be taxed on the basis of value, and please remember that we may spend months and years in discussion but there are only two systems of taxation, one is the ad valorem system, and the other is this system of income. You may use one or the other or both, so we said the ad valorem system has been tested out for a good many years. Certainly as applied to real estate, and certain classes of personal property of a tangible character it was successful, but we felt that all we could do was to suggest to the legislature by the recital of limitations the sort of system we wanted. So we said that the taxation of property made on the basis of value as applicable to real property, and also as applicable to personal property of a tangible character, should be made, and then we said in the case of intangible property that the legislature may have the right to put that in a class by itself and tax it on an ad valorem basis.

Now, then, a good deal has been said on the question of classification, and I repeat that I am not going to argue for or against it, but let me point out when the agitation started for classification, as applied to the question of taxation, the theorist, as well as some practical men, have been advocating the classification of all property and a re-subdivision, that is classify real estate into classes, personal property into classes, and intangible property into classes, and we felt, with a good many of those who expressed their opinions this morning and yesterday, the fallacy of classifying all property and re-subdividing it, has been proven, the only possible excuse for classification at this time is to apply it to intangibles only, so the classification provided for in this report is applicable to intangibles only, and under the majority report classification of real property and classification of personal property of a tangible nature is not allowed. Then we felt that the discussion of the matter here, or the action based on the decision of this Convention, by a legislature, might find that classification of intangible property was not to be desired, so we took the next step and said what else can we do but suggest a method of taxation of intangible property which would bring some return in the future, and naturally the question of an income tax suggested itself and so we said that the limitation which had been put in by way of taxing property on an ad valorem basis was not to be construed as a limitation in the sense that the legislature was not to have the power to put an income tax on the statute books.

So the next thing we said was that we would agree that the legislature ought to have the power to enact an income tax legislation, and the minute that was suggested all of the ramifications of the income tax laws were brought to our attention, and the first question which was presented to us was, did the legislature have the power to pass an income tax law, which shall run concurrently with the tax law on the ad valorem basis, and shall the legislature have the right to subject the same piece of property to an

ad valorem tax while it is subject to an income tax, and the majority of the committee felt that it ought to leave the door open and leave it in the power of the legislature to levy that sort of a system if it became necessary or desirable.

Then we said the legislature ought to be given the power of passing income tax laws, which would take the place of any tax laws on an ad valorem basis, and in the discussion of that phase of the situation it had occurred to use that real estate, the system of taxation on which has proven so successful, might not want to be subjected to a new tax, and an entirely different policy of paying its taxes on an income basis, but when it came to personal property, the tangible as well as the intangible, the hands of the legislature ought to be allowed to remain free and the legislature should choose whether in the case of personal property both of an tangible or intangible character, an income tax system shall be put on the statute books in place of the ad valorem system.

A great deal has been said here and it has been suggested that certain limitations and inhibitions on tangible property are preferable to a tax on an ad valorem basis on intangible property. Nothing has been said on the kind of enactment on personal tangible property as distinguished from the enactment of an ad valorem tax on the same property, but just a word on it to present the matter to you and not argue for it or against it.

In the course of the discussion in the committee there was one and only one principle or thought which dominated our ideas, and that was that neither the Constitution nor the legislature should ever put into execution a system of taxation which would be an aid or deterrent of the economical and industrial conditions of the State, and this system should have but one thing in mind and operate but in one direction, the raising of required revenue for the operation of the State and the distribution of that revenue among the citizens of the State in a just and impartial way. And in doing that it must be determined that it does not operate to aid any particular group of people, and it must be determined it does not operate to deter them in making some progress, and, insofar as it is possible it does not disturb the industrial, economical or financial conditions of the State.

In addition to that we have put in an ad valorem tax on personal property. Experience has shown it is unfair because the only way you can collect an ad valorem tax on personal property is to set a date certain on which an inventory of personal property will be taken and a valuation placed on it.

Now, men are men, and Governor Fifer, as well as anyone, knows that the honest man and not the tax dodger will see to it that he takes the benefit and advantage of the law which is on the statute books, and is not going to stock up on March first, but is going to see if he has additional money in the bank, that he will do all of the things on which he is going to pay a less amount of taxes, so that we have had the classes, we met it in the committee room, of people reducing the stocks, not because of the commercial conditions, or because the financial situation demanded it, not because the market was not right, but because it was a reduction in taxes, so it has been a common practice to transfer money out of the State. Certainly many of those making returns have been doing it, and not making a return on the money balances in taxes.

So illustration after illustration can be given where the ad valorem tax on personal property has interfered with the business of the State, and we felt that the legislature ought to be given the power and the right to substitute an income tax to take the place of the ad valorem tax as applicable to personal property of a tangible character.

We do not say to the legislature you must do one or the other, but we certainly feel that the people of the State will be satisfied to a greater degree, and the legislature will be able to do a greater degree of justice, if he can use one system in place of another, so we did present in the majority report the thought at least for your consideration of allowing the legislature to enact income tax, legislation that will apply to personal property of a

tangible as well as an intangible character, and then of course in connection with the further discussion, the thought underlying legislation of an income tax character, came the question of progressive taxation, because of the operation of the Federal Income Tax Law.

Now we felt to begin with that there might be a demand by the people of the State of Illinois for a graduated income tax, because of the experience of the Federal Government, and then the thought was also presented that certain phases of the graduated income tax of the Federal Government has acted as a deterrent in the financial and economical development of our whole Nation, and to the extent that we could, we wanted to overcome that evil. It is a compromise, I grant you, but again it is presented to you for your consideration when you take up the report.

You certainly will not find a member of the committee, certainly not the majority, instead of saying six to one, you make it eight to one or three to one or four to one, but the thought is there and we ought not to dodge it by bringing in any substitute report. The thought is this, gentlemen, and we should take it up directly, and not take it up by taking up some other measure.

Now this question of graduation shall be applied only with reference to the income tax as imposed concurrently with the ad valorem tax and the reason for it is this. When an income tax is running concurrently with the ad valorem tax you will see it is going to be controlled on a low basis, because a great deal of money is to be accumulated by the ad valorem tax, and there you can allow gradations without injustice to anybody.

I am perfectly willing to admit that I for one have been very much irritated by this constant reference of some members of this committee to any line of action which will protect the rich, and look after the rich in Evanston or other places in the State of Illinois, because we, as Constitution makers, want to protect the rich as well as the poor, we don't want any discrimination, or distinction made. So we felt the rich man would not be hurt if the greater tax was started on the basis that you make him pay six times more than the fellow who pays the lower tax, but we felt that where the income tax was substituted in to for the tax on an ad valorem basis it would be necessary to start it at a higher rate. We made some figures and our figures lead us to the conclusion that if the legislature abolished the system of taxation on an ad valorem basis on personal property and puts an income tax law instead on the statute books it will have to begin at least with a six or seven or eight per cent rate, that would be the lowest, and if you allow that to graduate it would make the highest six or seven times as much, so it does amount to a confiscation of the income property because the State would impose on a man a tax which would make him pay fifty-eight or sixty per cent, and the Federal Government does the same thing in its income tax so that a man would be better off if he had no income to pay at all, as he has to pay one hundred per cent under these conditions.

So we endeavored to put on the books something to take the place of the ad valorem basis, and, there, because it must start on a higher basis, there should be no graduation at all, so in presenting that thought it is offered to you for your rejection or acceptance but do not pass it by taking action on some substitute report which covers the whole range of the old subject.

Let every one of these things be acted on separately, and after due discussion of the merits or demerits underlying these suggestions, let us get together and produce a revenue article, and I say in advance as a member of the committee that will be acceptable to me and of the other members that signed the majority report of the committee, but everyone of us will be dissatisfied and we have a right to be if it is accomplished by parliamentary tactics, offering substitute after substitute with all of the thought covered in the one revenue article.

Some one will likely tell us a revenue article you are putting in a legislative piece of machinery, but it is one of those situations where it cannot be helped because there are enough of you here to say that the legislature

shall not be given carte blanche in the creation and execution of a taxing system, and the minute you put an limitation on the powers of the General Assembly that calls for exception, and then that calls for others, until you have covered all of the different features of a taxing system.

To sum up in conclusion, I would say that the following are the phases of the taxing system which you may adopt or reject after discussion in the Convention: Taxation on an ad valorem basis expressly applied to real estate; taxation on personal property of a tangible as well as of an intangible character; a super-imposed or directly concurrent income tax which may run in conjunction with that; then we have at the same time an income tax on personal property of a tangible character to take the place on the books of the ad valorem basis, a graduated or progressive system, or a uniform system, in one case or in both.

The question of exemptions is also presented there. In other words the whole system is presented to you, and my plea to you gentlemen is to stop filing substitutes, stop fooling about them, and take every phase of the situation and dispose of that as you will, as presented by the majority report.

Mr. LINDLY (Bond). I don't rise for the purpose of discussing this question of revenue, I rise for the purpose of making a suggestion. After listening to all of these speeches and this debate, I am led to believe that they will probably lead us into a more speedy conclusion of the question, but we have had before us two minority reports and in the discussion of the minority reports I will admit it is necessary to discuss at some length the majority report, as to reasons why these others should not be adopted. I believe we can reach a conclusion quicker by voting down the substitute and taking up the majority report and amending it; there seems to be just three questions in the majority report, from this discussion, that there is a diversity of opinion on in this body. One of them is the classification of property, the other is whether there shall be an income tax or not, and the other is if you have an income tax what kind of an income tax shall it be.

We have heard a great deal about property, tangible property and intangible property, and invisible property, something I have never been acquainted with, but I think if we vote this down and take up the majority report which is entitled to a consideration by this body, if there is an amendment offered to strike out the classification, then confine ourselves to the discussion on classification. When we settle that question take up the question of the income tax and confine ourselves to the discussion on that point, and settle that, and then the question as to the kind of an income tax, we will settle this question and I think that is the wise thing for this body to do.

CHAIRMAN WHITMAN. Are you ready for the question?

(Motion lost.)

Mr. GALE (Knox). I now move the adoption of section one of the majority report.

Mr. DAVIS (Cook). In that connection will the Chairman allow a suggestion? Section one contains all of the vital features of the whole article, and under our procedure we have been reading the section in its entirety. I would like to suggest that we read it a sentence at a time and act on each sentence.

Mr. GALE (Knox). I am perfectly willing to have section one presented to the delegates, read sentence by sentence and have it acted on, but I believe for the purpose of parliamentary procedure, my motion must be that section one be adopted.

Mr. DUNLAP (Champaign). I rise to offer an amendment to section one if it is in order at this time.

CHAIRMAN WHITMAN. Section one has not yet been taken up.

Mr. DUNLAP (Champaign). I understand that a motion was made to adopt it and before that motion is passed upon I desire to offer an amendment.

CHAIRMAN WHITMAN. All right, you may present your amendment.

(Insert amendment.)

CHAIRMAN WHITMAN. The question is on the amendment offered by Senator Dunlap. Are you ready for the question?

Mr. DUNLAP (Champaign). I believe that this amendment is one of the important differences of opinion among the members of this Convention. The Constitutional Convention of 1870 evidently considered this question very carefully as to the levy and collection of taxes, and I believe that they incorporated into the section a rule that I think would be well to take heed of and observe the meaning of at this time. "The General Assembly shall provide for the levying of taxes on property by valuation so that every person and corporation shall pay a tax in proportion to the value of his, her or its property."

That is a fundamental truth and fact of justice, it seems to me, upon which revenue can be raised for the maintenance of the government. That cannot be denied or contraverted, and I believe that we will be acting in the interests of the people of this State if we adhere very closely to the principles that are enacted. My purpose in offering this amendment is to strike out what is commonly known as the classification of property, of intangible property, as I believe that such a provision in this section goes far to nullify the phrase that immediately precedes it. The classification of property means that certain properties of certain classes, shall be given a favored position when it comes to the payment of its part of the revenue to be given to the maintenance of our government. The gentlemen who have talked in favor of the majority report here have spoken of the necessity of presenting a revenue section here that will not show favoritism in any way to any class of property, that we are to provide justice for all property in the levying and collection of taxes.

It was said by the chairman of the committee in the discussion of the minority report yesterday, as I understood him, that business requires that certain exceptions be made, if the business of the country is to be properly carried on. He stated also that it was impossible to assess and collect taxes on intangible property. Now there is no question in my mind but what there has been a failure on the part of the government of the State to levy and collect taxes on intangible property in a manner that is fair to the owners of the intangible property, or in justice to those who own tangible property. But, that is not because of wrong principles that are laid down in the Constitution of 1870, the section for the valuation of property of all kinds, owned by all people. It is a failure on the part of the administration of our tax system. Now that controversy has been going on, as we know, for a good many years. The question now before us is, as I take it, whether we are going to insure the impossibility of collecting taxes on a certain class of property, and therefore going to pardon all offences of that kind of tax dodgers in the past, and future, and to legalize the exemption of a certain kind of property in the State because of the fact that it is harder to put that sort of property on the tax books than it is that of tangible property; had we better not devote our energy to the question of devising some means of placing that property on the tax books rather than to place a premium on the evasion that has gone on in the past? No one likes to pay taxes. I don't think anybody enjoys the payment of taxes, but it would appear that the easier it is to avoid the payment of taxes, the more general the complaint is of the avoidance of taxes. In other words a man to be honest must own property that is disclosed by its presence and cannot be covered up, but that is no reason why, here in the Constitutional Convention, we should recognize a principle that I think is entirely wrong.

"The General Assembly shall provide for the levy of taxes on all property by valuation so that every person and corporation shall pay a tax in proportion to the value of his, her or its property." There is not any question in my opinion but what the owners of intangible property are just as able to pay taxes on their property as are the owners of tangible property. It has been demonstrated here by figures which have been before this Convention that income from land for example has been less than three per cent

on the average; the income on intangible property, the lowest estimate I have heard made as to the income from that was that of savings banks, where the income was three per cent, and from that upward. Now, let us see just for a moment what this means. We say to tax the land and tax the mortgage on that land, by that we have a double taxation. Let us see for a minute. We have the land producing we will say wheat and corn; it produces other products, but this will serve as an example. This wheat is bought by a man on my left, who is in the manufacturing business, manufacturing those products into food. Corn is produced for another who also manufactures it into food products. Now, the single taxer would have us understand, or have us believe that we can put an indebtedness upon the land, that would then be passed along to the man who buys this wheat and corn and manufactures it into food products. The unfairness of such a proposition, I think, is evident to most of us in this Convention. That means adding the price that is necessary to maintain the government, the taxes, to the price of the farmer. That is an impossibility because of the varying conditions of the rise in the rates of this product, the price of its production. It is unequal in different years. And to add such taxes to that and pass it along, we are unable to doubt that it shall be an impossibility to pass them along. That is evident from the fact that it has to obey the law of supply and demand. The farmer takes what he can get for it. He is unlike the manufacturer who gets to a cent what his product costs; and he can add that and pass it along to the consumer. That cannot be done with products from the farm. But that is not just the point that I want to make. That point is here, that the man who manufactures the wheat that he buys on the one hand is making a profit upon his production, upon his manufacture, that is much greater than the amount he produces of raw material, so that the manufacturer who manufactures the corn into a product, who is making a profit that is greater than the product on the raw material that he buys, why should he, the manufacturer, of these products that come from the farm, hand up a tax upon his finances upon what he is producing in the way of manufactured products equal with the farmer who produces his raw material? If it is true that he should pay a tax, then what becomes of the principle? The double taxation there is imminent. The product is raised on the farm, the farmer paid the tax. It is then passed along to the manufacturer, and he pays a tax. Now it is said that the man who has the money and who loans it to the man upon the farm in the form of a mortgage, that to tax his product, his paper, is double taxation. If the man on the farm pays tax upon the land, and if the man who owns the mortgage is taxed, then there is double taxation. The man who has ten thousand dollars and invests it in land, and the man who has ten thousand dollars and he loans that, they are both doing a business that they expect will return them a profit. On the one hand, we will say that it produces four per cent on the farm, and on the other hand, it produces six per cent on the mortgage. Suppose they were both of them alike; suppose each produces five per cent. Is there any reason why the man who has a mortgage should have his property exempted from paying taxes upon that money? It is property. If this is true, then, is there any good reason why the man who has his money in the bank should be exempted from paying taxes upon that money? It, also, is property. To be sure it is inactive, perhaps, at that moment, it is not producing anything at that moment; and neither is the investment in real estate, where the lot is free from building. That cannot be rented. That lot is not producing anything. The man that has a farm lying out and not having it farmed, it is not bringing him anything. But yet he has to pay on this property. Where is the profit on that? So, therefore, should he be taxed upon that land just the same as though he had it active? In fact, in some countries as I understand, the unproductive land, that is, all land that is not used, land that is allowed to run wild, is taxed at a higher rate than the land that is cultivated, because the land that is out of cultivation is held for speculative purposes. So, perhaps, when a man who has money in the bank, it is there because he has not an opportunity at that moment

to use it; he is leaving it there with the expectation of using it in the very near future. And so take this list, that is given here, the long list of money, notes, stocks, securities, bonds, credits, and participation in the profits of property, and notes of indebtedness. Here are more of such classes of property. Are the lands named in such a manner as to each class as may be provided for by the general law? Now, gentlemen, I submit to you the fundamental proposition that goes before that. I call your attention to the equal taxation on land. That is a wrong principle for this Convention to adopt. It is going backward and not forward. Let us put the same means which are necessary in the General Assembly giving them authority to find some method of finding this property, rather than saying it has been impossible to disclose it in the past, therefore, it is impossible for all time. This is an unjust proposal of law, it permits some to escape taxation while adding some burden to the other class of property. Now, as to what shall be done along that line——

Mr. REVELL (Cook). May I ask the senator a question? Do you believe in putting into the Constitution a principle, even though in the application of that principle, it is absolutely unworkable?

Mr. DUNLAP (Champaign). No, I would not say put it in if it is unworkable.

Mr. REVELL (Cook). Do you think any man elected to an office as an assessor or a reviewer can be found in the State of Illinois, who will create an absolute injustice in forming his valuations upon any kind of intangible property, so much so as to drive out such holders of the intangible property from the State of which he is an assessor?

Mr. DUNLAP (Champaign). I agree with much the delegate has said. I would like to say that we would have to depend on men to do it; and you will never find a man in the State of Illinois who will create an absolute injustice in taxing intangible property so as to drive it out and make it an injustice upon the people who own it. May I ask the gentleman one question? What injustice do you particularly speak of?

Mr. REVELL (Cook). The injustice of making an equal tax upon savings deposits; the injustice of making an equal taxation upon bonds paying a low rate of interest.

Mr. DUNLAP (Champaign). What would equal a low rate of interest?

Mr. REVELL (Cook). A low rate of interest is four per cent, that is absolutely for a trust fund.

Mr. DUNLAP (Champaign). I will answer that by saying, I am very glad the gentleman has asked that question because he emphasizes the fact that I want to bring to your attention. As we know from statistical information that has been furnished this Convention, that produces less than four per cent, and the average is supposed to be three per cent. The gentleman has referred to savings in the bank. Now, savings in the banks are the accumulations of the man of small means. He deposits his funds upon which he gets a small rate of interest, perhaps, three or four per cent. At the end of a given period, when they have sufficient savings to buy notes or bonds, or mortgages, of a higher rate of interest, they are invested in the higher collateral.

This thing of bringing up the three per cent of savings in the banks, is a proposition that is unfair, and that it ought to modify our principle here of taxing all property equally, is hardly a logical argument, in my estimation; because of the fact that it is a temporary deposition of earnings of the people of small means; and as I say, they accumulate enough and invest in larger propositions. It goes into that. Therefore, it is only a temporary proposition. And as to the investment in bonds, stocks, and mortgages, and things of that kind; I try to devote my argument to that——that tangible property. It does not produce any larger revenues than does the property about which he speaks, about which he seems to offer the exemption. So that, I cannot say that is going to drive the property out of this State. I will readily grant this proposition, that if it is assessed unfairly, out of proportion in value to tangible property, that should be corrected.

But to say that property in this State, that one class of property, shall not bear its just proportion of taxes, I think is to do away with all legal principles of taxation, and make it a matter of favoritism. Now, if you are for the classification of property brought before the General Assembly for adjudication and adjustment, you will have, as has been stated here on the floor, opened an organized lobby on all these different propositions to get a reduction in the rate of taxation or in the assessment of certain classes of property; and if there is any one thing that we ought to avoid it is to have that sort of a lobby facing upon a General Assembly, the effects of which are just as bad as it would be in my opinion, to have everything that might come up in a common council in a city within that city, adjusted by that council.

If I had the time, I would like to go into that feature of it; but I am not going to.

Mr. GALE (Knox). I would like to ask the senator a question here, if he will permit me.

Mr. DUNLAP (Champaign). Certainly.

Mr. GALE (Knox). Can you give me the average price of the farm lands of Champaign county that have been returned for the purpose of taxation? That is, for the last year.

Mr. DUNLAP (Champaign). Why, the highest of any land in the State.

Mr. GALE (Knox). What is the average price of the Champaign county land?

Mr. DUNLAP (Champaign). Just about one hundred dollars.

Mr. GALE (Knox). What is the average rental of the rented farms in Champaign county, per acre?

Mr. DUNLAP (Champaign). I will say this, I know they are rented for crop land. I do not know of any farm that is rented for a cash amount.

Mr. GALE (Knox). What would you say would be the average rental in dollars and cents that is charged on the crop?

Mr. DUNLAP (Champaign). Well, I have not the figures before me for that. I have not the means of ascertaining that; but why pick out a special locality to determine a general question?

Mr. GALE (Knox). Because, I assume that you are better acquainted with the rental prices in Champaign county, than you would be in the other parts of the State.

Mr. DUNLAP (Champaign). You might as well ask me any other local question that has a general significance; and you can pick out particular things that might look one way or the other, just according to the locality you pick out from.

Mr. GALE (Knox). What is the average value as returned for taxing purposes, the farm lands throughout the State, then?

Mr. DUNLAP (Champaign). Forty dollars. I have not before me the exact figures.

Mr. GALE (Knox). Average sixty dollars. Are you able to state, senator, what the prevailing average rental is that is received from tenants occupying lands, farm lands in Illinois?

Mr. DUNLAP (Champaign). Well, I would say it ran all the way from two to twenty dollars, perhaps. I do not know that those figures are accurate.

Mr. GALE (Knox). What I am trying to make, of course, is, whether you are figuring the values that are placed upon farm lands for tax purposes, or the values that are placed upon farm lands for rental purposes.

Mr. DUNLAP (Champaign). I am figuring on the real values of the lands. That is what I understood to be the usual method of figuring for all such purposes. A land is worth what you can sell it for.

Mr. GALE (Knox). You would not say, would you, senator, that the average rental on rented farm lands throughout the State based upon the tax value was the rate of four per cent?

Mr. DUNLAP (Champaign). No; much more than that.

Mr. GALE (Knox). More than that? Then, let me ask you another question. Do you think that it is possible, as practical operation or administration of tax matters, to have placed as the value on intangible the same proportion of the actual value as would be placed upon the tangible property. In other words, do you think that in taxing, that any taxing system can be worked out that will place the same relative value for taxing purposes on all real estate and other tangible property, as it will upon intangible property?

Mr. DUNLAP (Champaign). I do not think so; I do not see any reason, why do you not first consider the matter here of whether it would be possible to include in this revenue section a provision that property should be assessed at its value. That is what we are providing for here.

Mr. GALE (Knox). Yes.

Mr. DUNLAP (Champaign). That value might be a less cash value that could be obtained. If it could be shown in a court that you are assessing intangible property upon its real value and making the assessment of other property upon a modified value, then it is fair that the man who has the intangible property should have it assessed on the same basis as tangible property. I agree with you that it would be unfair to assess one class of property on one basis, and another class of property on another basis. That is exactly the reason for this amendment. It is to prevent any such distinction between one class of property and another.

Mr. GALE (Knox). Let me ask you this question, senator. Is it not absolutely essential that there should be some provision for classification of intangible property in order to permit it to be valued at the same ratio, or proportion, of its real value as the value to be placed upon real estate, as a matter of practical application, or administration, in any taxing system that may be put into effect?

Mr. DUNLAP (Champaign). I am glad you spoke of that. It is one of the points I wanted to raise. I am very glad you brought it to my mind, or I would have forgotten it. In 1898 there was a revision of the tax laws of this State. Property—real estate—at that time was assessed, as we ascertain, as nearly as might be, upon a one-fifth valuation. Yet the law required that there should be taxation on the fair, cash valuation. That had gone along from 1870. In 1898 the legislature held a special session to revise the revenue laws.

Mr. GALE (Knox). Is this an answer to my question, senator?

Mr. DUNLAP (Champaign). Yes. The revenue laws at that time required property to be assessed upon a full cash valuation. In 1870 the assessment was, perhaps, seventy or eighty per cent the cash value. It went down until 1898. Property, real estate, tangible property was assessed on a basis of one-fifth its value. It was said then, at that time, before the General Assembly by those who were most competent to judge, that the reason that much intangible property was hidden and not disclosed to the tax assessor was due to the fact of the inequality of assessment; and there was good ground for that objection, and for that statement. Now, it came before the General Assembly in this form. Two propositions were made: to endeavor to return to a cash valuation on the assessment of tangible property, or, let the matter continue as it has been going, whether we should have a system of taxation and of listing property at its full value, then taking one-third as a judgment afterwards for the purpose of assessment. That is where that came about; and the argument was, at that time, that if you are to list property upon the same basis, or, rather, if you would provide so that the assessor could return his property, intangible property, and list it at the same basis that he valued tangible property, then we would have a great amount of intangible property disclosed and placed upon the tax books for the purpose of assessment. That was done; and the object in doing that was that the assessor, who had heretofore, or heretofore gone out and listed one hundred dollars disclosed to him as one-half hundred dollars, that he must from then on list or value the property at its full value. He said one hundred dollars was one hundred dollars, and he

could not assess it at twenty dollars. He must, in that event, take it at its full value. But when he comes to view lands or view houses, there is a question of judgment there. And they have been going from one competition between township assessors throughout the different years. One township assessor would endeavor to assess lower than his neighbor, until they had run the valuation of lands down to twenty per cent of its real value. Why, this project is on the statute books, and is there today. We will list property at its full value and will take one-third of it for the purpose of assessment.

Mr. GALE (Knox). Was it being listed at its full value after that enactment got on the books?

Mr. DUNLAP (Champaign). At that time it was one-fifth; then it was, afterwards, one-third, and then one-half, in order that the cities might have a bond power. But when it was first enacted, it was listed, practically, at its full value because of the fact that it took about one-fifth of it for the purpose of assessment. They had to list it at its full value, in order for them to get taxes enough to run the government—local and State. What I mean to say in answer to your question is, that intangible property will not be disclosed by any such process as that.

Mr. GALE (Knox). In other words, it is your idea, if tangible property were listed at its full value, then, still, intangible property would not be disclosed. Then, is it your opinion that intangible property, all classes of intangible property can pay the same rate of taxes, or should pay the same rate of taxes, as tangible property listed at its full value?

Mr. DUNLAP (Champaign). I will answer that emphatically, that I believe that.

Mr. GALE (Knox). Do you not think, senator, that one of the reasons why intangible property has not been brought out for taxation purposes is because public sentiment in this State does not believe that intangible property—or rather that it is against public sentiment to compel intangible property of all classes to pay the same rate of taxation as tangible property.

Mr. DUNLAP (Champaign). No; I do not believe that. I do not believe it for this reason: That it has become the common practice, as you might say, to hide intangible property due to the fact that the other fellow is hiding it, and the man who has it does not like to pay his part of it while his neighbor, who also has it, is not paying his share. There you have one dishonest man starting the job of hiding his property, so the man next to him does not feel like he ought to disclose his property, and he hides it. He hides it because it is easier to hide than tangible property.

Mr. GALE (Knox). That is your view, senator; that if some system of inquiry were encouraged whereby all intangible property would be disclosed, public sentiment would support a prosecution compelling the return of all intangible property for taxing purposes at its full value, and at the full rate; and that it would be possible along with that to have the full value of tangible property returned.

Mr. DUNLAP (Champaign). I believe we should write a system of assessing different from what we have had in the past. I believe, as I thought in 1898, that if you would have proper penalties attached, and you would have them enforced, and you would have the proper administration from the tax commissioner down to the county assessor and the local assessor, an organization that was competent throughout, that you could disclose all the property; or, if not all of it, at least, a very large part of the intangible property, because now the penalty for failure to list property—intangible property—is only met by the penalty of double taxation, the assessor to show judgment in listing. And most of those people who have intangible property would rather trust the judgment or the ability of the assessor, than to take chances in making a statement of their own.

It is not so much the law as the administration of the law, and the lack of proper penalties. If you knew, as I know, the influences that worked in the legislature in 1898 to prevent taxing intangible property and the imposing of penalties adequate to fit the crime, as the saying is, why, you

would have an idea, perhaps, of why those penalties do not attach. There was a possibility that a great deal more property would be disclosed under that system.

Mr. GALE (Knox). Senator, if tangible property as practical application of the taxing system, cannot be assessed at its full market value, or, rather, would be assessed at the same comparative value as intangible property, then you are never to get public sentiment to support the forcing out of intangible property, will you, no matter what your penalties are?

Mr. DUNLAP (Champaign). I think that is perfectly true in a large measure.

Mr. GALE (Knox). You think that if public sentiment is of the opinion that certain classes of intangible property would not bear, and should not bear the same rate of taxation as tangible property, then you will not be able to enforce the collection of that rate of taxes on intangibles, even though you have penalties.

Mr. DUNLAP (Champaign). It has never done so.

Mr. GALE (Knox). Is my statement true, if my promise is true; if, as a matter of fairness intangible property is not able, and should not, as a matter of justice, bear the same rate of taxation as tangible property, then it will not be brought out for taxation no matter what your penalties are?

Mr. DUNLAP (Champaign). You are presuming a position that, I think, is absolutely incorrect.

Mr. GALE (Knox). Supposing it is incorrect. Would you say that would come about or would it not?

Mr. DUNLAP (Champaign). If it were not correct, then probably not. The question of whether intangible property can bear the same rate of taxation as tangible property is one, I think, which might be susceptible of evidence. But I never have had any evidence disclosed to me. I have sat in a great many hearings where those who were interested in a lower rate on intangible property have discussed that question; but they have never produced anything that I know of that would convince me, except to speak about the poor widow woman and the party who had some savings deposits in the bank drawing three per cent interest.

Now, while it is true that there is more money that is invested in low rate bearing bonds, yet they are invested in those bonds, in some instances, because of the fact that they are such splendid security; that any time the owner of the bonds can get his money merely by going to the bank. He can make temporary use of them in his business; and they are used simply as collateral and not so much as investment after all. They use their money for investment purposes in other business, perhaps, or in other investments on which they get a much higher rate of interest.

The gentleman speaks about the value of lands, and about the amount of rentals made on certain high priced land. That is true. But has any one disclosed to us the high rate bearing securities and investments that are made in tangible property. You can go to the banks in Chicago today, and you can buy notes there for eight, and, I have understood, as high as nine per cent—good business notes—bearing that amount of money. Is there any reason on earth why an investment of that kind should not pay a tax equal to that the investment on tangible property pays?

Gentlemen, we have got to get down to fundamentals on this proposition. We should not take a job which demands of us certain things. If there is one gentleman here that can show that money invested in this sort of intangible property can not afford to pay this interest here, this tax, when tangible property can, I would like to have him come forward in this discussion, and tell us, and show us, the facts with regard to it. I have not heard anything yet to make me think that way.

Mr. REVELL (Cook). Will you yield to a question?

Mr. DUNLAP (Champaign). Yes.

Mr. REVELL (Cook). You speak of intangibles bearing these high rates of interest, what do you have to say as to the large portion of intan-

gibles which does not bear any such interest, and cannot, bank deposits, for instance? That kind cannot afford to pay.

Mr. DUNLAP (Champaign). What kind of bank deposits?

Mr. REVELL (Cook). Savings bank. Can that kind afford to pay as high a rate of taxation, as tangible property, or as these high interest bearing securities?

Mr. DUNLAP (Champaign). I think that you cannot discriminate between low interest bearing property of that character any more than you can discriminate between the low interest bearing properties in lands that do not rent for more than two dollars an acre—do not bring more than, at the most, five or six dollars an acre. If you select the one on the one hand why not the other on the other?

Mr. FIFER (McLean). I want to ask you a question.

Mr. DUNLAP (Champaign). I want to finish this statement. It is here a question as to what is right and just as between the property of one class and the property of another class; and I hold here, and I challenge any one to dispute the proposition that all property should be assessed alike in this State, and pay equal taxes.

Mr. FIFER (McLean). The delegate from Knox asked you a question with regard to the value of farm lands and there was talk that it was worth four hundred dollars an acre. Don't you know that those extreme values have come up only in very recent years?

Mr. DUNLAP (Champaign). Certainly, I know that.

Mr. FIFER (McLean). Don't you know that land values have advanced more rapidly than stocks or goods, and other property, isn't that true?

Mr. DUNLAP (Champaign). I do not think that they have advanced quite as much as some certain kinds.

Mr. FIFER (McLean). Do you think it would be fair to make a fundamental law in Illinois that would be applicable to the present value of real estate, that is at four hundred dollars an acre?

Mr. DUNLAP (Champaign). I do not think that this matter of values and of assessments of one kind of property at the present time, or of another kind of property at the present time, enter into this question. The question is: Is there property in this State that should have a favorite brand of tax, or have privileges put upon it, for the purpose of giving it a particular advantage over some other sort of investment?

Mr. FIFER (McLean). My point is this to the question put by the gentleman from Knox. Don't you know that these high prices on all kinds of property have been brought about in recent years, and that, in all human probability it is only temporary?

Mr. DUNLAP (Champaign). I think that is true.

Mr. FIFER (McLean). Don't you know also that the prices on land have been brought about in a considerable degree by speculators who would make fictitious sales from one to another to make prices in order that they might get rid of their holdings at enormous profits. It has been so in frequent instances in our town. But it is only fictitious and temporary.

Mr. DUNLAP (Champaign). The difficulty I think in this matter of taxes is our method of making assessment and the penalties that attach. The general government has difficulty as well as the State government in enforcing the prohibition law. I notice that the general government is more successful than the local governments in enforcing this law. I have also noticed in the matter of raising revenues that the national government is able to ferret out and find out where this property is that produces these high incomes, and they are able to make the returns—not only make the returns but make returns actual, and in doing that, it seems to me, they are setting an example to the State of Illinois on this revenue proposition. I believe that if we have an income tax, and I think that we ought to have an income tax in this revenue section, that it will assist very materially in helping this situation.

I am in favor of a straight property tax, and I am in favor of a straight income tax, on all incomes. By that I mean a straight income tax, a general income tax, that takes in all incomes.

Mr. W. A. JOHNSON (Bureau). May I ask a question? I want to get your conception of fairness clearly in my mind. I may have misunderstood you; but I want to put this question in, and your answer to it will disclose whether I have misunderstood you or not. We are talking now, and so are you, about the right of the General Assembly to classify intangible property. My question is this: Suppose that you and I were standing here today, and the assessor came along and he asked you to list your intangible property. Now, I am not talking about income tax; leave that out of consideration entirely. I am simply speaking now of property tax. That is what we are willing to know about.

Mr. DUNLAP (Champaign). Yes.

Mr. W. A. JOHNSON (Bureau). You said to him, "I have a ten thousand dollar bond, maturing thirty years from this date, drawing four per cent interest per annum;" many of which are in the country; and he turns to me after listing yours, at one hundred cents on the dollar, and he asks me to list mine. I tell him that I have a ten thousand dollar bond maturing thirty years from date, drawing seven per cent interest per annum and he puts me down for ten thousand. He puts you down for ten thousand, too. Do you think that is a uniform and equal tax on each of us?

Mr. DUNLAP (Champaign). He does not ask you whether that bond is drawing four per cent or eight per cent. He asks you the value of your bond, and he puts it down at one hundred cents on the dollar.

Mr. W. A. JOHNSON (Bureau). That is all right. I am talking about property tax now. Not the income tax.

Mr. DUNLAP (Champaign). I understand.

Mr. W. A. JOHNSON (Bureau). Do you think that is an equal, uniform tax upon both of us?

Mr. DUNLAP (Champaign). Let me answer that question by asking you this question: Do you think that a farm that is worth four hundred dollars an acre that is making eight per cent, we will say, upon that investment, and here is another farm that is worth two hundred dollars an acre, and is drawing three per cent on the investment; do you think it is fair to assess both of them at their full value?

Mr. W. A. JOHNSON (Bureau). I refuse to answer that question, for the very obvious reason, sir, that that is your motion. Your motion is to eliminate classification of intangibles. What is your answer to that question—is that a fair, uniform tax on each of us?

Mr. DUNLAP (Champaign). My answer to that question is this: That there are hundreds of kinds of bonds and stocks drawing a different rate of interest, and different sorts of investments, in that sort of property, and if you were to make a different assessment on different property that accrues a different rate of interest, you would have a good many different assessments.

Mr. W. A. JOHNSON (Bureau). That is not an answer to the question. Is that a uniform, and equal tax on each of us?

Mr. DUNLAP (Champaign). That is for you to determine that.

Mr. W. A. JOHNSON (Bureau). No. I am asking your judgment as a man.

Mr. DUNLAP (Champaign). You ought to have bought the other kind of bonds.

Mr. W. A. JOHNSON (Bureau). Now, I am asking your judgment as a man; you are tackling this question.

Mr. DUNLAP (Champaign). I am tackling this question as it exists in property.

Mr. JOHNSON (Bureau). Is that an equal, fair, distribution of taxes?

Mr. DUNLAP (Champaign). Why, if I were to answer you that it was a fair proposition, they ought to be listed in accordance to the interest they

draw, then I would say that classification ought to exist all along the line, in every bank note that is presented for assessment. Not every bank note that is presented for assessment ought to be listed according to the interest that it draws.

Mr. JOHNSON (Bureau). Very well, that may be so. As many of you can get up there and help him out as you absolutely please. I must have a square answer to that question. Is that a fair, honest, equal tax?

Mr. DUNLAP (Champaign). I will answer that if you will give me an opportunity in my own way.

Mr. JOHNSON (Bureau). It can be answered by yes or no.

Mr. DUNLAP (Champaign). I am not on the witness stand here.

CHAIRMAN WHITMAN. The gentleman refuses to answer the question.

Mr. DUNLAP (Champaign). I refuse to answer it his way. If you want me to answer it my way, I might say this. That if two gentlemen have got ten thousand dollars in money and one of them buys a four per cent bond and the other buys an eight per cent bond that it is due to the financial judgment on the part of the one man in buying that low rate bond and that the State should not take into consideration the questions of just what that man is getting on the bond. Every bond should be assessed at its full value. If it was only worth ninety cents on the dollar, it should be listed at ninety cents on the dollar. If it is worth one hundred cents, why it should be listed that way. There is some reason why it is paying that low rate of interest. It is probably used for collateral security in his business and the other is purely an investment.

Mr. JOHNSON (Bureau). Your answer is that a man should be taxed in Illinois because of poor judgment in investment, that is all your answer states.

Mr. DUNLAP (Champaign). You can state it that way if you will.

Mr. JOHNSON (Bureau). Will you let me read just one expression here from Justice LaMar of the Supreme Court in answer to that?

Mr. DUNLAP (Champaign). You can get the floor and read that later on.

Mr. JOHNSON (Bureau). But we are talking here of arriving at a solution of that question whether or not the General Assembly should be permitted now to put into one class a piece of property that draws only a certain income and put into another class a piece of property that draws a higher rate of income, and that is for the benefit of us all here.

Mr. DUNLAP (Champaign). Do you want a direct answer to that question? I would say that it would be foolish for this Convention to undertake to provide some means by which the assessor would have to ascertain the revenues that are derived from any particular class of property in order to make the assessment because if we take up tangible property there are lots that are vacant, that do not bear a cent of revenue, would you assess tangible property that does not pay revenue the same as tangible property that does bring a revenue? If the gentleman means that, he is very mistaken in his judgment, or else he has some reason to believe they would advance in value when he makes the investment.

Mr. JOHNSON (Bureau). Senator, that is not a fair comparison.

Mr. DUNLAP (Champaign). I will be through in just a minute.

CHAIRMAN PRO TEM. Whenever you see fit you may close. The debate will now close and the Senator may proceed.

Mr. DUNLAP (Champaign). I want the members of this Convention. as I presume they are capable of doing justice as well as I am, perhaps a great deal better, not to make a mistake here of trying to create a proposition where the principle that has been established here is absolutely sound and right, by undertaking to side-track certain classes of property here that ought to be taxed and are not paying taxes by some provision in the Constitution. I know that a man who owns intangible property dislikes to pay taxes on that, but he cannot hide it. Is there any reason on earth why we should provide in this Constitution some means by which we can legalize this method of suppressing or refusing to disclose a certain kind of property be-

cause of the quality, because it could be hidden, because it is of a quality that can be hidden. I take this position, that all classes of property should be taxed equally according to their valuation, and until someone is able to demonstrate to me that intangible property cannot pay a tax according to its valuation the same as other property does, then I shall persist in that belief. There has been a question raised here by a delegate about the rate of interest upon different kinds of investments. It seems to me it is rather ludicrous as applying to the assessment of property. Property is worth what it is worth, and the assessor if he can ascertain that, will place it upon the tax books. It is not a part of his duty to ascertain what rate of interest is being paid upon a certain class of property. He is called upon to assess its legal value, the value of the principal in that property. Then one other thing here that is not exactly in line with this motion to strike, but has to do with it in a measure, and has an intricate bearing upon it, is the question of double taxation, where we are taxing the property on a lower basis than we are proposing to add an income tax. You might say that this is additional tax. I think you make a mistake when you look at it in that way. It is not an additional tax. We have got so much taxes to raise for our school purposes, for our city, for our country, and for our State. Take part of that by an income tax we are just lessening the amount that we have to pay when we pay upon our land and upon intangible property to the extent that we have an income tax. So, I think we view that thing in a contrary light if we say that it is a division that takes into it taxes on income, taxes upon property, we can see the justification of it. Don't make the mistake of thinking that by enacting a provision here whereby an income tax may be established that we are adding to the tax of the people. I do not believe that is true. We are just simply doing that in order to see that the taxes are diversified. You can see that. The chairman of the committee said yesterday, I believe, that if we tax intangible property then we are adding to the interest charges that business has to pay for the use of money, that they have to borrow at different times of intangible property. That may be true, and it may not. It all depends very largely upon the supply of money that is available. But if that were true, suppose it were true, why, let us not say that this is any good reason why intangible property should not be taxed. Here is a man here that is a lawyer, like my friend here, and like the gentleman who presides and who has dignified the committee as a whole. They are men who are earning what you would call a comfortable living. Now, these gentlemen you might say ought not to be taxed upon their income because they are giving values that go to their clients, and make them pay. That is not any reason why they should escape taxation because they are giving values that go to their clients. The government of the State is supported now upon taxes that are passed along to the ultimate consumer, but that is not a reason why the gentlemen should not collect taxes. So these arguments, if you will examine into them, you will find that they have not very much substance. After all that property is property. You can come right back to the declaration that is in this provision here that is before us, that all property should pay taxes according to its valuation. Let us not put anything into this provision in our Constitution which will endeavor to make favorites of one class of property over another. Let us add an income tax, and let it go at that, and the legislature having the experience that they have now ought to be able to provide penalties. One provision that we put into this Constitution that I consider of importance is that we have provided for a county assessor and a tax commission here, and ultimately, perhaps the assignment of assessors under the county assessor. That would get an assessment of that property perhaps, that would be equal in its efficiency to what the Federal Government is in assessing property. I thank you. (Applause.)

Mr. TAFF (Fulton). There are several matters in the section of the majority report which I think in the orderly manner should be dispensed of, perhaps before this amendment which the senator has just offered. Therefore, I move you that the amendment lie upon the table.

Mr. DUNLAP (Champaign). Point of order. That is not in order to lay the motion upon the table.

Mr. MACK (Hancock). Now, at this time, I don't want to engage in any extensive arguments of this matter, but want to suggest, however, to the Chair that I believe it would be the part of wisdom, after I made a statement of this matter, and before we go into an argument of the matter, to have copies upon the desks, and I had assumed that. I had prepared and arranged for copies, but it seems the copies are not ready. I will make my statement as to the reasons involved in this amendment and then I shall ask the indulgence of this Convention until the copies are placed before the members.

In this first paragraph, Mr. Chairman, I involved the following propositions: the question of income tax; the question also of the classification, and I will read it again so as to get it clearly before the Convention and then I will try and give my views to the Convention so that they will be clear.

If I may pause, right at that point, after "real property" was added in the amendment, "tangible personal property" so that these two must be taxed by valuation. In other words the situation that existed at that point in the original was that not only tangible but intangible property should be covered by an income tax. That has been removed from the payment of an income tax and has been placed in the payment of an ad valorem tax, so in this we have a tax on real property and tangible personal property; that is the ad valorem tax.

Now, the second change made there in the income tax was that there shall be first an income tax on intangible property, intangible personal property, and second, there shall be an income tax on occupations, so to sum the matter up and get before the Convention clearly the changes made I want to state to you, gentlemen, what I understand is involved in the original, and now involved in the amendment.

The original in the first place provided for the classification of intangible property. The original provided also for the classification of tangible personal property. This amendment which I have offered now provides for a direct ad valorem tax on not only real property but tangible personal property, and every form of real estate and every form of personal property except intangible personal property is now placed in the domain of direct taxation, while intangible property is placed in the domain of a tax to be levied by income.

As to the income tax I have not changed the report of the majority; the income tax as to exemptions stands as it is. The income tax of the original was as I remember a graduated income tax. The income tax as stated in the amendment is not a graduated income tax, and we have further distinctly provided, which was also provided by the original, that on all property where a tax shall be paid that that tax shall be deducted from the income tax. That statement is as follows "taxes levied by valuation on property in this State and paid shall be deducted from the tax on income derived therefrom by the person or corporation paying such property tax."

Now, I don't deem it necessary in what I am now giving to you, which is only a preliminary statement, to go again into the threadbare questions that have been thrashed out in this Convention for the last two days. I don't deem it necessary to say to this Convention that in framing this, one of my primary objects was to eliminate an attempt to classify tangible personal property as well as intangible personal property, but I will say that the idea I had in framing this, and the idea had by those in sympathy with this movement was that it might be better in the very important clause, the first clause on the proposition of revenue, to present to this Convention something that was concrete, and that there might be possibly suggestions made as to that, and you can get at it by having a concrete suggestion which would meet the majority of the wishes of this Convention and embody the majority of the wishes of this Convention, and eliminate classification and

clearly lay down in classification an income tax on intangible as well as a clear statement on income tax occupations.

Mr. JOHNSON (Bureau). That is a certain species of classification, isn't it, you classify intangibles?

Mr. MACK (Hancock). That I will say to the members is a matter for this Convention to determine, and my conclusion on that would not be valuable. Generally, as to the proposition which I submitted, and the question as to what is and what is not classification has been thrashed out—

Mr. JOHNSON (Bureau). I am asking your judgment, Judge, on it. That is classification, isn't it?

Mr. MACK (Hancock). I am glad to answer your question and say that if what little I might add to the general opinion on that subject is of any value, I might suggest insofar as for instance money lying in the bank from which no income came, insofar as that money did not pay a tax, it might be considered in the way of graduated income as classification, but it would not be profitable for me to go into a general discussion of that because I believe that this Convention is fully informed as to the theory of classification.

Mr. JOHNSON (Bureau). Another thing, the General Assembly would have no power to levy a graduated, progressive income tax?

Mr. MACK (Hancock). They would not. That is, I might say to the member, a matter for this Convention.

Mr. JOHNSON (Bureau). I am asking you your judgment. You prepared it.

Mr. MACK (Hancock). Under this it would not, but I say what should be there is a matter for this Convention.

Mr. JOHNSON (Bureau). Well, I am only asking your judgment as to the child you produced.

Mr. MACK (Hancock). There is no question about that. He asked under this amendment whether a graduated tax can be levied and I said, no. Now, if there are any further questions connected with this matter—

Mr. JOHNSON (Bureau). Just another question, while I am on my feet, (I might not get there again). You say this tax shall be a substantial tax. Do you mean by that the income tax rate on intangibles shall be different from the tax on other income?

Mr. MACK (Hancock). No.

Mr. JOHNSON (Bureau). Then why do you say that?

Mr. MACK (Hancock). Why do I say "substantial"?

Mr. JOHNSON (Bureau). Yes.

Mr. MACK (Hancock). That applied, if the gentleman reads it, to all income.

Mr. JOHNSON (Bureau). To all income tax?

Mr. MACK (Hancock). Yes.

Mr. JOHNSON (Bureau). So it is a question for the General Assembly to determine what is a substantial tax to be levied on an income, isn't it?

Mr. MACK (Hancock). It is for them to take this provision, and it is proper law for a judiciary to then construe it after it is passed.

Mr. JOHNSON (Bureau). If they had a right to say that half a mill was a substantial tax in their judgment, and the Supreme Court would not pass on it, that would apply alike to rich and poor?

Mr. MACK (Hancock). That statement may go to the Convention for its face value, just the same as any statement I made.

Mr. JOHNSON (Bureau). Yes, but you are a lawyer and I am answering you.

Mr. MACK (Hancock). What is your question?

Mr. JOHNSON (Bureau). Read the question, will you please, Mr. Reporter?

(Question read.)

Mr. MACK (Hancock). Yes, if the Supreme Court never passed on it.

Mr. DUNLAP (Champaign). You provide for an income tax on intangibles, now how are you going to disclose these intangibles when about

seven per cent only are disclosed at the present time? How are you going to disclose them, and levy an income tax on them?

Mr. MACK (Hancock). That I suppose is a matter for the legislature just as the national income tax was a matter for Congress.

Mr. DUNLAP (Champaign). I would like to ask you one other question, and that is, whether you have an income tax on both tangible and intangibles?

Mr. MACK (Hancock). An income tax on intangibles alone.

Mr. DUNLAP (Champaign). You do not provide for a tangible income tax?

Mr. MACK (Hancock). The income tax as to tangible property by the provision here, permits the deduction of any cash that has been paid, and my conclusion was as I have stated, that you deduct for it, and when you made that deduction in all probability it would exhaust both of those figures. It provides for a tax on all property though.

Now the income tax is just as the majority report offered it, by way of deduction of what is paid by the ad valorem tax, over and above the property.

Mr. JOHNSON (Bureau). In other words the right of deduction is the same as given in the majority report of the committee, in the same language?

Mr. MACK (Hancock). Yes.

Mr. MIGHELL (Kane). How about residences, which have no income, on which there is an ad valorem placed, is there any way of getting that tax back?

Mr. MACK (Hancock). No.

Mr. BARR (Will). Am I correct in my understanding that under this amendment the rate of income tax would be the same upon the income of a tax payer derived from intangible property as the rate would be upon every other source of income he might have?

Mr. MACK (Hancock). It would.

Mr. BARR (Will). So that then your provision for income tax on intangible property would be substantial and real and would apply also to the income tax from any other source?

Mr. MACK (Hancock). It would.

Mr. BARR (Will). A two per cent income tax on an intangible that paid 6 per cent would amount to about twelve dollars, if it was a two per cent rate?

Mr. MACK (Hancock). Yes.

Mr. HAMILL (Cook). You mean two per cent on the income?

Mr. MACK (Hancock). Yes, two per cent on the income.

Mr. BARR (Will). Six per cent on the principal would make six hundred dollars, and two per cent income tax would make a twelve dollar tax on ten thousand dollars of intangibles, if we had a two per cent intangible tax rate?

Mr. MACK (Hancock). I think your figures are right.

Mr. DUPUY (Cook). I would like to ask if the draft as it now stands would tax the professional man?

Mr. MACK (Hancock). It would occupationally, it would. It is there.

Mr. DAWES (Cook). I would like to ask the Judge, is it your idea to offer this as a substitute?

Mr. MACK (Hancock). To be amended to read as follows—

Mr. DAWES (Cook). To be amended to read as follows. Is it your idea that if that is adopted, we may then proceed to the amendments of your proposal? Wouldn't the effect of that motion prevailing be the actual adoption?

Mr. MACK (Hancock). Yes, but you can amend it at any time.

Mr. DAWES (Cook). You can amend it after voting on this question?

Mr. MACK (Hancock). I assume the proper place would be now.

Mr. DAWES (Cook). The majority report is before us now subject to amendments and the thought struck me—I was wondering if you could di-

vide these amendments in such manner as to concentrate the attention of this Assembly upon the particular points, one by one, as they came before us.

Mr. MACK (Hancock). To my mind the first paragraph of the revenue article, it seems to me, is pretty compact in itself, it would seem to me if anyone had any amendments they can suggest it.

I do not believe I would be of any use advising you as to the procedure.

Mr. MILLER (Cook). In order that we may have an opportunity to study this proposed amendment I move we recess until 7:30 o'clock this evening.

CHAIRMAN WHITMAN (Boone). It is moved that this Committee of the Whole now take a recess until 7:30 this evening.

Mr. DUNLAP (Champaign). I would like to move as an amendment that we arise and report progress and ask leave to sit again. That is a substitute for the movement to recess. It is too important a question for us to discuss and decide upon short notice without having the opportunity of reading and digesting carefully the effect of this substitute amendment. I think it is important enough that we proceed in an orderly manner and we can go after this proposition in an understandable way—as I understand it we were to proceed on the consideration of the majority report, here in detail, and then there was a motion to lay the pending motion on the table, I think contrary to the rules of the Convention. However, we can take that up later. The rules of the Convention provide a way of bringing a vote on a motion if they wish to bring that to a vote.

Mr. MILLER (Cook). The gentleman is not talking to any question before the house, point of order, Mr. Chairman.

CHAIRMAN WHITMAN (Boone). The point of order is well taken.

Mr. DUNLAP (Champaign). On this motion to rise and ask leave to sit again I submit it as important that we understand the true import of the proposition submitted here in the way of a substitute. If this had been printed and before us a number of days we might recess until this evening and pass upon it. If we are going to have a convention which will receive a favorable consideration of the people of this State let us take our time and not act hastily. I think we ought not meet this evening, I think we ought to have this evening to consider the report and we ought to consider it tomorrow. I insist upon my motion.

Mr. DAVIS (Cook). Mr. Chairman, since the wording of the amendment follows the report of the majority with certain words and sentences eliminated there is no necessity for adjourning for two or two and one-half hours now.

Mr. DUNLAP (Champaign). Do you expect to railroad this through and then have it adopted by the people of the State?

Mr. DAVIS (Cook). I am delighted to answer along personal lines any personal question, and you are the only man on the floor who would ask me that sort of a question.

Mr. DUNLAP (Champaign). I asked you the question.

Mr. DAVIS (Cook). You have my answer, I will say we do not need to consider it.

Mr. DUNLAP (Champaign). I insist that we should have time to consider it.

CHAIRMAN WHITMAN (Boone). The motion before the house is that we recess until 7:30 o'clock this evening.

(Motion lost.)

Mr. REVELL (Cook). I would like to ask Judge Mack a question, without asking the same question over again, which we asked Senator Dunlap; I take it from this you have the same general idea he has regarding uniformity in taxing intangible assets.

Mr. MACK (Hancock). I have.

Mr. REVELL (Cook). So practically the answer of Senator Dunlap would be the same as the answer you would give to a similar question.

Mr. MACK (Hancock). I cannot say I am familiar with those answers, I cannot say that, no. The man with the bonds would pay the same amount as the man with the stock of goods.

Mr. MACK (Hancock). Wouldn't that be an element of an income there, made by personal effort?

Mr. REVELL (Cook). Well, if it would be substituted.

Mr. MACK (Hancock). It says when you pay your income tax you are entitled to deduct from that any tax paid on your property. This proposal says that.

Mr. REVELL (Cook). If the General Assembly decided that we should have an income tax which would cover the business that, of course, would answer the question.

Mr. MACK (Hancock). Until the General Assembly has acted we can hardly presume. We can take this as we find it, and speak of the possibilities, but we cannot say what the condition will be until the legislature creates the law?

Mr. REVELL (Cook). Certainly not.

Mr. HAMILL (Cook). Is it your understanding that the grant of power which you offer is an influential limitation of power so that the legislature could lay no taxes other than those specified in your article?

Mr. MACK (Hancock). I had not given that matter close study.

Mr. HAMILL (Cook). You are aware of the fact that our Supreme Court has held that under the present article permitting the legislature to make a tax, which would be uniform, limitation on the General Assembly not to levy any other tax.

Mr. MACK (Hancock). I have no doubt that is true.

Mr. HAMILL (Cook). If that is held on the present article it would probably be held on yours then, wouldn't it?

Mr. MACK (Hancock). Yes.

Mr. HAMILL (Cook). If this is a limitation on the General Assembly's powers, then the General Assembly could lay no direct tax on intangibles.

Mr. MACK (Hancock). No direct tax on intangibles.

Mr. HAMILL (Cook). Then what is the need of saying as you do "in lieu of"?

Mr. MACK (Hancock). It might be, I would say to the gentleman, it might be that someone on this floor, or possibly when it reaches the committee of which the gentleman is chairman, you will put it in more eloquent language, I just suggested the possibility of it.

Mr. HAMILL (Cook). I was striking out. If the legislature cannot levy a tax on intangibles because of a limitation of its powers then it is unnecessary to say "in lieu."

Mr. MACK (Hancock). The intent was there to express an idea that there would be nothing on intangibles except as stated, and as I suggested to the gentleman, someone on the floor or someone on his committee could put it in better language.

Mr. HAMILL (Cook). My idea of better language would be no language. It is already covered by the intent.

Mr. MACK (Hancock). That is for the gentleman to decide, and have it taken up with his committee.

Mr. HAMILL (Cook). The last sentence is "the income tax on intangible property." There is no distinction between income tax on intangible property and the income tax on any other property is there?

Mr. MACK (Hancock). No.

Mr. HAMILL (Cook). Well, what is meant by income tax on intangible property here, the words "on intangible property"?

Mr. MACK (Hancock). In regard to all other property there is a tax levied but none upon intangible property.

Mr. HAMILL (Cook). But your income tax is an integral thing?

Mr. MACK (Hancock). It is.

Mr. HAMILL (Cook). You cannot distinguish income tax on intangibles from the income tax on any other property, except you deduct an ad valorem tax on the other property.

Mr. MACK (Hancock). Will you say that again?

Mr. HAMILL (Cook). You cannot distinguish the income tax on intangibles from the income tax on any other property, except that you deduct the ad valorem tax on the other property.

Mr. MACK (Hancock). It might be possible, I will say to the gentleman, if that was scanned carefully, it was intended to say there "unintangible property," and it probably could have said as the gentleman suggests, "all income taxes should be substantial and real."

Mr. HAMILL (Cook). All my questions are directed to the phrasing and not by way of criticism.

Mr. MACK (Hancock). I appreciate that, and I assure you they are very well put.

Mr. RINAKER (Macoupin). I would like to ask either of the gentleman or someone who can answer it, the reason of the insertion both in this section and the majority report of the first two sentences? They are new sentences, new provisions, and I assume that they have been put in for some proper or necessary purpose. Will you say why they are introduced or someone answer that?

Mr. MACK (Hancock). The gentleman from Knox, had that put in in the original proposition, and as they possibly discovered it in their committee it might be courtesy to say that you ought to answer that question and I am perfectly willing to have you do so.

Mr. RINAKER (Macoupin). I would like to have some explanation about that.

Mr. GALE (Knox). Well, I have about answered the absolute necessity of that language. That language as the delegates all say is very general in its term, it lays down however a rule of conduct for the legislature which the legislature ought always to follow. The legislature should never possess the power of taxation, should never contract in a way to anybody or never surrender it to anybody. The legislature should levy taxes under general laws and it should levy them for public purposes, only some of the legend and real tax payers of the country have thought that those words should be in the revenue article of the Constitution. I am inclined to think that in those special charters may be granted there is not so much merit in these words as in the states where special charters may still be granted. If those words had been in the earlier Constitution of this State, before special charters were prohibited, these exemptions from taxation would never have been granted but whether the language is absolutely needed in view of the statement "more power from taxation shall never be surrendered or contracted away," in view of that provision in the Constitution, I am not certain. I doubt if it is. But a provision that the tax should be levied under general laws, for general purposes only it seems to me is a wise suggestion to the legislature.

Mr. HULL (Cook). On that first sentence—I heard you say, yes, with reference to that first sentence, that is preventing any legislature authorizing a bond issue which would be exempt from taxation.

Mr. GALE (Knox). You did not hear me say that. You heard the delegate from Schuyler ask me whether it would not so prevent, and you heard my suggestion if there were that that would so prevent. Then the section referring to exemption should have such clause added to it. I understand the delegate from Schuyler will offer an amendment adding such exemption. My understanding is he is going to offer an amendment to read "State, County and other Municipal Corporations and their securities shall be exempted," so there will not be any question on that proposition.

Mr. FIFER (McLean). Now, I have a very faint recollection from general reading that in the years long ago back in England the right of taxation, which was often in the crown alone, would be sold or farmed out in cases of great emergency and in times of stress and of war, when they could not wait for the levy of a tax they would sell to men who had the

money, right to tax, to get funds at once, selling out to meet the expenses of the present occasion, but that is obsolete in every country, every civilized country in the world and ought to have no place in a modern Constitution.

Mr. MILLER (Cook). Possibly I can say a word from information which I have which would make it not so seemingly arcade to put that into the Constitution. I know in the Province of Ontario, Canada, they are suspending taxation by contract with industries going along for a term as long as twenty years. That is a practice that is being followed today, with municipalities under permission of the legislature.

Mr. SUTHERLAND (Cook). I wish I could agree wholly with this amendment or leaving this substitute for the majority report. I feel it is my duty however to call your attention to several vital differences between this proposal and the majority report before you. In the first place this so limits the General Assembly it cannot deal with at least one of the present rather great difficulties in bringing out an equality in taxation. I refer in illustration only to one matter and that is the taxation of merchandise. In talking with merchants in the small cities of the State and in my own city in the outlying districts and the small towns around there I know there is a great dissatisfaction because they know there is anything but equality in the taxing of their goods. Not every merchant can have on his shelves on assessment day the amount of goods on which his taxes could be reasonably based; one man has a full stock on assessment day and another man's stock is very low. Suppose two men or two companies, if you choose, A and B, or two partnerships, have equal income for a year, say twelve thousand dollars, and under this proposal their income would be taxed it is true, and that deduction would be made of the taxes paid by valuation from the tax computed upon the income.

Supposing that A had in his possession on assessment day, \$25,000.00 worth of goods, and supposing he was assessed on the full amount of his goods, he would then pay a tax of approximately \$625.00 by valuations.

Supposing B, a block away, also having a net income of approximately the same amount, twelve thousand dollars, and supposing on assessment day his line of goods happened to be only about ten thousand dollars, and supposing, too, that was another rare case where the assessor had stopped it for the full amount, and not some estimated amount, his tax would be approximately two hundred and fifty dollars. Now, each man, Mr. Chairman, would be judged from the tax on income which in each case would be one hundred, and twenty dollars, if it was an income tax at one per cent, the tax by value which in each case would wipe out the tax by income, so the State would have the expense of operating its taxing machinery and the men would be put to the trouble of making out their schedules for nothing at all, and the equality of the tax between the two men would be just as bad as it is today. One would pay a tax of two hundred and fifty dollars and the other a tax of six hundred and twenty-five dollars in spite of the fact that they had equally important establishments. So that leaves the General Assembly without powers, and that is only involving personal intangible property, because, Mr. Chairman, this applies by terms only to intangible personal property, insofar as it permits the tax on incomes to be a complete substitute for the tax upon personal property, it is limited to intangible insofar as that substitute is concerned.

Now, there has been a good deal said about the General Assembly and I want to take this occasion, if you will bear with me in passing, to say a very brief word on that subject. There have been remarks made on this floor about the responsibility and integrity of the General Assembly, that I regret to say I should have expected to hear only in a meeting of anarchists, and I am sure that they will meet with a full consideration of their effect on the sentiment of the public. It seems to me, Mr. Chairman, that next to the judiciary, next to the executive, the legislative power and authority of the State ought to be held in respect by the people and should not be spurned, especially by those who are most dependent on having it maintained in a dignified manner and upon a pure and clean basis; I don't know

how people can expect the General Assembly to meet and live up to the high ideals and the high standards, when it is always being slurred. I don't know, Mr. Chairman, how you can expect the General Assembly to live up to the full responsibilities for its people if you tie its hands and thereby express distrust of it.

Or, how you expect it to do good when you tie its hands so it can do neither ill or well. I want to remark in that connection that there is a very wide distinction between laying down fundamental limitations on the power of your General Assembly and in laying down a limitation for every fear and bugaboo that may arise in the minds of every man who happens to speak on public matters.

If your General Assembly is going to serve the people it has to have some power, with which to render that service.

Now, Mr. Chairman, I want to call your attention to the fact that the majority report permits in the case of all personal, tangible and intangible property, as the General Assembly may select—not merely as to some one or other item of intangible property, but as to all personal property, a complete subdivision, if the General Assembly so desires, it does not compel it, because we do not suppose or assume that our wisdom is going to be final for fifty years, and we want to leave some latitude in the hands of the General Assembly. But this is a thing they may do under the majority report, a thing that is absolutely to do under the proposed substitute. I also want to call your attention to this vital difference; this proposed substitute calls for a uniform income tax. There is much to be said in favor of a uniform income tax. There are also some difficulties in the way, and, Mr. Chairman, I want to repeat a remark made by the distinguished delegate from Cook, across the hall this morning, when he said the thing the Revenue Committee had in mind from the beginning in tackling this problem, was not to help one interest or injure another, but to serve the State of Illinois, and that committee regarded the problem of taxation from one point only, namely, from the point of view of producing revenue equitably and justly, to all, insofar as that might be done.

Therefore, Mr. Chairman, our first duty is to see what effect the provisions we write into the Constitution will have upon the revenues of the State of Illinois, to secure the funds that are necessary to carry on the government which must protect our property and our lives. We can have only a uniform income tax under this proposed provision. We have in this State in the majority report a very low exemption from income tax, put in there wisely, as I think, on the theory that the more citizens that contribute financially to the support of their government, the broader and better citizenship we shall have, and therefore, I think the exemption should be low. Mr. Sneed, who represents in private life organized labor, said he favored no exemption at all, and thinks every man who earns an income should pay a tax thereon. We recognize the necessity of permitting some exemptions so that the government will not be forced to expend its energy in collecting inconsequential amounts, but with this low exemption, or possibly none at all, we are confronted with the fact that the tax on income, uniform tax must be a low tax, because it must be suited to the ability of the smallest taxpayer in the State to bear without injustice to himself. We cannot saddle an intolerable load on the shoulders of our humblest citizens, and yet, Mr. Chairman, if we do that, I think that you will see, from the figures I now produce, that we will not be doing what we should for the revenues of the State, and we will not be relieving real property to any extent from the disproportionate burden it is now bearing.

I am using as a basis the income tax figures of the Federal Government for the State of Illinois for the year 1917. I took 1917 as being the nearest to a normal year that we have had in the operation of our federal income tax. The year following was the year of swollen income and the operation of the highly excessive profit tax.

Now, Mr. Chairman, in Illinois in 1917, the total net income reported by individuals was \$1,119,960,000.00; that includes \$256,000,000.00 reported

but which was not taxed because it came outside of the pale of the tax, due to the liberal exemptions of the Federal Income Act. The total net income for corporations was \$1,133,783,000.00 or a total net income reported, personal and corporate, of \$2,253,744,000.00.

Now, if you are going to acquire a flat tax of one per cent on incomes, that would have yielded only in the State of Illinois a revenue of \$22,537,443.00, and I want to call your attention by way of comparison that in the County of Cook in 1916 there was derived from personal property, and no one contended it was anything like a complete list of the personal property, it was just a little better than any other year, we had, but nothing like a complete list. Our revenue from that source amounted to about \$15,000,000.00. Not so very far away from this amount of \$22,000,000.00 which we would get on a one per cent basis.

Mr. HULL (Cook). From the whole State?

Mr. SUTHERLAND (Cook). In one county.

Mr. McEWEN (Cook). How much tangible and how much intangible?

Mr. SUTHERLAND (Cook). The amount of intangible was very small, I suppose it ran about the same as through the State, perhaps a little less. Those figures are around seven per cent and a fraction, infinitesimal you might say.

Now suppose you try to apply a substantial tax, which is the case, due to a tax payer who pays on a small income; take a man with a family, whose income is two thousand and fifty dollars a year, he comes outside of the pale of exemptions, he has no exemption. At one per cent tax he would pay twenty dollars. Very well, I don't suppose he would object; at two per cent he would pay forty dollars and he would feel it. At three per cent he would pay sixty dollars and that is too much. On a one per cent tax a man with twelve thousand dollars pays one hundred and twenty dollars. That does not very well approximate the tax by valuation on property, it is not a very substantial tax, but it is the tax you are applying when you put all that kind of taxation into the same class with the man who is paying on a small income. On the basis of the Wisconsin graduation from one per cent to six per cent going up by grades, one, one and one-half, one and three-quarters, two, two and a half, two and three-quarters, three and three and a half, three and three quarters, four, four and a half, four and three-quarters, five, five and a half, five and three-quarters, six, six and a half, and so forth. The income in the State of Illinois, for 1917, the return to the Federal Government in the State of Illinois would have produced approximately sixty-seven million dollars, and it would take an average rate of about three per cent on that total amount of income to produce it. I don't think I need argue further to you gentlemen that that is a pretty high rate to put on a man who is married and supporting a family on two thousand fifty dollars a year.

Now the majority report has made an effort now to take care of specifically such situations but to give the General Assembly power to work out those problems and take care of them, by a provision which is not made in this report. In the interests of living we thought it was desirable to provide for some such graduation, because of the experience of the Federal Income Tax, because we discovered our neighbor, Wisconsin, with no limitation on the amount of graduation in the way of income taxation, was dealing in the fields of sur-taxation. We deemed it necessary to put a limit on the amount which should be made, and the chairman very clearly explained that yesterday, and explained why it was a ratio limitation and not a flat limitation. Now, because we say it was necessary to permit the income tax to be substituted in certain cases, that you could not work out the problems satisfactorily by merely allowing the deduction, that is taxes by value and then deduct, we gave the General Assembly the power of substitution in such cases and as the chairman explained clearly yesterday we provided that they should make that tax, if they made it, a complete substitution, in form as to the incomes derived from such property. And furthermore that it should be something substantial. We tried to find some-

thing more specific, and better language for it, and every time we tried something more specific, we were afraid of constructions which might prevent the General Assembly from doing the very thing necessary to equalize in an equitable manner the tax burdens of the State, and so we thought that all we could do was to put on a signal notice to the General Assembly that we expected if they did that thing and made that substitution, the tax should not be inconsequential and insignificant but should be a substantial tax, and it is a word to which the court would undoubtedly give attention, so it would be possible in making the substitution, Mr. Chairman and Gentlemen, to provide that when a man has property that is not all assessable on assessment day he shall not escape to the detriment of his neighbor who happens to have property that is assessable on that day, but both being the same kind of property shall be assessed in the same manner, in a substantial manner and to the benefit of every other tax payer in the State of Illinois. Now those are two of the principal differences between the majority report and the proposed so-called amendment.

Mr. FIFER (McLean). You have spoken there and said that the tax must be substantial. In what connection is that language used? Is it with reference to income tax?

Mr. SUTHERLAND (Cook). Yes.

Mr. FIFER (McLean). Under the proposition your report satisfy the majority of the committee, isn't the legislature empowered to ignore the income tax and place an ad valorem tax on intangible properties.

Mr. SUTHERLAND (Cook). Under the present section of the Constitution?

Mr. FIFER (McLean). No, under your proposition.

Mr. SUTHERLAND (Cook). They are compelled to do that.

Mr. FIFER (McLean). No, not compelled—may.

Mr. SUTHERLAND (Cook). They may do it, yes.

Mr. FIFER (McLean). Suppose the General Assembly though supposed to adopt that method of taxation, that is levying a specific tax, an ad valorem tax—not an ad valorem exactly, but is your proposition that they may tax it at a different rate?

Mr. SUTHERLAND (Cook). Yes.

Mr. FIFER (McLean). Now, couldn't they under your proposition tax it at one thousandth part of a mill?

Mr. SUTHERLAND (Cook). You are referring to the line beginning "That the General Assembly shall have the power to tax money," etc., on any one or more of such classes of property except rates and in such manner and form as may be provided by general law.

Mr. FIFER (McLean). Yes, wouldn't it empower them if they saw fit to do so to place a tax on intangible property at the rate of one thousandth of a mill.

Mr. SUTHERLAND (Cook). I suppose they could do that, they could do a great many things that they don't do.

Mr. FIFER (McLean). Yes, but you were speaking here with considerable approval of the limitation made on the power of the legislature compelling them to put an income tax on,—that is if they did put one on, that it should be substantial.

Mr. SUTHERLAND (Cook). Yes.

Mr. FIFER (McLean). And you further stated that that was language that the Judiciary of the State would take notice of. Now, why didn't you say in your proposition that if the legislature chose to ignore the income tax on intangible property but levied a property tax that that tax would also be real and substantial?

Mr. SUTHERLAND (Cook). I have no objection to that at all.

Mr. FIFER (McLean). Why didn't you put it in?

Mr. SUTHERLAND (Cook). Governor, one of the reasons why this Convention is sitting here and passing upon the reports of committees is so that when the committee overlooks something, it can have the wisdom of your years and have the other delegates to sit in judgment upon them.

Mr. FIFER (McLean). You have had it before you for months, nearly a year, now didn't you overlook it in one instance but not the other?

Mr. SUTHERLAND (Cook). I will say this to you, it was a comparatively recent thought in the other, too.

Mr. FIFER (McLean). Would you be willing to insert in your proposition that the tax levied on intangible property shall be real and substantial and shall approach the taxes levied upon a tangible property?

Mr. SUTHERLAND (Cook). Governor, I would have no objection to the idea set up, but I would wonder what the construction of the language might be, and what you would mean by approximating. Wouldn't the burdens on tangible property differ with various few restrictions of the State, whereas your income tax must obviously be levied as a State wide tax? I am afraid there would be some conflict and difficulty.

Mr. FIFER (McLean). None whatever. I can say as a lawyer and one who is quite familiar with the taxes of the State there would be no more difficulty in one instance than there would be in another. In each location the tax on intangible property would be real and substantial and that would approximate the taxes levied on tangible property. Now, if that was in there it would give the assessors a little leeway, so where intangible property is shrunken in value, as I am willing to admit is often the case, the tax on tangible property would only have to approach that tax.

Mr. SUTHERLAND (Cook). I have the very highest regard for your legal understanding and judgment, but I am also compelled to have some regard for the legal opinion of such of the other lawyers as are on the committee. They have not had your wide experience it is true, nevertheless, they have given a good deal of thought to these matters and they frankly were afraid of getting into very definite language.

Mr. JOHNSON (Bureau). As a member of that committee I would be delighted to insert those words.

Mr. FIFER (McLean). It would help your proposition very materially if those words were in there. Strike out the classification and insert those words and it would improve it very materially in my estimate.

Mr. SUTHERLAND (Cook). Now I have concluded my comments on this very excellently intended amendment but, Mr. Chairman, because of these difficulties, these inherent difficulties, it seems to me just as it seemed to other speakers, including the delegate from Bond and including the delegate from Cook, that if we are to make real progress we better do it on the basis of employing the majority report and not trying to put in some other device, as a basis for taxation, and so, Mr. Chairman, at the conclusion of my remarks, I will say if any other gentleman wishes to speak, I will withdraw the motion temporarily, but now, Mr. Chairman, I am going to move that the amendment offered by the delegate from Hancock lie on the table.

Mr. FIFER (McLean). Just a minute.

Mr. SUTHERLAND (Cook). I will be very glad to withdraw it for the time being.

Mr. FIFER (McLean). There is no more important question can come before this convention, than this. There has been no proposition by the committee or any portion of it that has fully met my approval. I am in the situation of the fellow who said that while he could not get all he was entitled to he was willing to take the best that he could get, and that is no position. It does seem to me that the report of the majority of the committee is getting away from a remedy for the difficulties that, it is freely admitted by all the members of this Convention, exist. I told this committee when I was on my feet a few hours ago about discrepancies in the rates paid by real estate when compared with the rates paid by tangible property, in taxation. It is no use to go over that fact again, but how did that come about? It was in this way. Taxes became heavy. When we were a sparsely settled community and we had no such demand on our pocketbooks as we have today, taxes were light and they rested lightly upon the shoulders of the people but in the progress of time taxes became heavier and they got so heavy that the owners of intangible property ran away from that tax.

They concealed their property. The owners of land, town lots and farm lots, could not hide their property; they could not get away from this property, but there was one thing they could do, they could reduce the value of their property and it seems to have been a foot race between the owners of intangible property and the owners of real estate to get away from this heavy burden of taxation; and the owners of intangible property have been the fleetest runners, until today real estate is paying eighty per cent of the taxes, while they are only paying seven per cent.

Now, what ought we to do for that situation? I insist that this tangible property has been in a foot race and it has got down to the point where this burden of taxation is becoming exceedingly serious. If this tangible property is discovered and assessed according to its value, that is in proportion to the value that is placed upon real estate, in my judgment and in my study of the situation, the taxes in Illinois would not exceed one per cent and that should be the problem. And the proposition that is presented by the gentleman from Hancock is nearest meeting the situation and avoids the difficulty that is confronting us at this time than any other proposition that has been presented. I think in my judgment that it ought to be amended. That is the proposition of the gentleman from Hancock so that it would be said that the taxes, the income tax on intangible property shall be real and substantial and shall approximate the rate of taxes on tangible property. Now, that will give the taxation authorities a leeway so that real estate valuation is reduced, they need only approximate it and when that is done we will get back to the basis from which we ran away and this tax burden will be light. When it is admitted that this tangible property constitutes fifty per cent, one-half of the wealth of Illinois, it is only paying seven per cent, will they ever come back and will we ever be able to get back where we started from when this foot race began? Then everybody will have justice done to them and everybody will be satisfied or ought to.

Mr. MILLER (Cook). It seems to me we cannot make much progress in this matter until we take up three questions and decide them one by one. Those three questions are: Shall there be classification? Second, shall there be compulsory income tax, and third, shall the income tax be a State graduated? It seems to me unfortunate that the motion to strike the classification feature from the report of the committee was tabled because that was a matter of getting at and deciding one and the first one of these three important questions. That matter has been done and I don't know of any way of getting now to the end unless we take these things up seriatim and discuss them. Now then, that this has been done, I know of no other way than to go at it backward. I move to insert in this substitute section the very words that the gentleman moved to strike out in the original report. That will bring it up and then we can discuss it and decide that matter and go to the other, and therefore, Mr. Chairman, although I am not at the present time in favor of it, in order to get the matter before the house and dispose of that first, and to do the matter in order and get to an end sometime, I move the inserting in the ninth line of this substitute proposal offered by Judge Mack after the word "otherwise" and before the word "taxes" the following words that appear in the original committee report "but the General Assembly shall have power to tax money, notes, stocks, securities, royalties, bonds, credits, or participations in profits or property and evidences of indebtedness or any one or more of such classes of property, such rates in such manner as uniform as to express as may be provided by general law." I therefore move the insertion of those words for the purpose of bringing up for discussion that matter, and not because I am committed to them. Now that matter being before the house I would like to discuss it for a few minutes only, that question of classification. It is, of course, one of the vital questions involved here. I hesitate to disagree with the gentlemen of the committee on that subject because they have spent many months on it but I think it should be discussed more than it has been discussed here, before a vote on the question, and my present impression is against this classification and I will state as briefly as possible

my reason for it. There must be some sort of taxation to take care of intangibles, other than the system we now have. The system we now have has not worked for fifty years and it will never work. It won't work because the men who own the intangibles find them easy to hide and they consequently hid them and not merely because they would be unfairly taxed, as to real estate, but because they would be unfairly taxed with reference to each other. Reasons given, it seems to me, attempting to make and enforce a uniform tax against both intangible and real and personal property, tangible personal property, those given by the chairman of the committee, it seems to me are strong and to my mind they are conclusive. The intangible will be hidden to a more or less extent and the real estate will be consequently under valued, as a matter of fairness and we can never get a full valuation of real estate and get the intangibles at any value. The reasons against classification as they appeal to me are these: In the first place we have no experience in that line to guide us, that is no sufficient experience. The chairman of the committee said they are classified in Pennsylvania. They are classified in Minnesota, but just what the results of that permission to classify intangibles in those two States have been, and those are the only two States as far as I know where the permission has been taken advantage of, we don't know. Surely, there is no sufficient experience on this to warrant us to committing ourselves to that method of taxation. Certainly not as against any income tax on which we have had experience of several years in our Federal Government, and a number of years in several of the State governments and about twenty years or more across the sea, in England and Germany particularly.

Another thing is, if we rely on the taxation of intangibles instead of an income tax and classification in order to enable us to tax intangibles, we do not touch salaries at all. In our City of Chicago, there are salaries, incomes, by the tens of thousands of twenty-five hundred dollars to twenty-five thousand dollars a year, the recipients of which live in apartments and pay practically no taxes. That is a source of income that should be taxed and it would yield a very large amount of revenue. Another thing, classification and taxation of intangibles, cannot possibly be made, and it seems to me that is one reason why it is utterly impracticable to bring up and list all of the intangibles, and why men will take advantage of the privilege or opportunity they have of hiding them, for instance, circumstances that are familiar to all of us, stocks of corporations cannot be taxed, the capital stock cannot be taxed at par value because that bears no necessary relation whatever to its actual value. It therefore must be taxed according to its actual value, but we all have known of instances of capital stock selling in the market as high as seventy dollars a share that did not pay one cent of income, and no dividends whatsoever. Now a tax upon that stock on a valuation of seventy dollars a share is utterly unfair. Other stock we know of that is selling, we will say at eighty or eighty-two dollars a share that produced an income of eight dollars a share and there are railroad stocks that we have all seen that have sold at over two hundred dollars a share that were paying dividends of only six dollars per share. Many men have bought bonds at one hundred or at one thousand dollars, par, and in the course of a few years the bond is paying no income whatsoever and yet it had a definite value and it is a promise to pay and it may pay an income next year. We know of corporate stocks that are paying no income whatsoever, no dividend yet the actual value of these stocks is one hundred twenty-five or one hundred and fifty dollars a share. Those are a few instances of a dozen which you can think of but which prove beyond any question to my mind that the only fair way to classify intangibles is to classify them according to their income producing qualities, which is nothing more or less than an income tax.

Mr. FIFER (McLean). Wouldn't you apply your doctrine of income to real estate also?

Mr. MILLER (Cook). I am talking now solely to the question as to whether there should be a classification and when we come to the question

of income matters, as to whether it should be compulsory or not, or whether it should be graduated or not, there are a few words that I would like to say on that subject.

Mr. FIFER (McLean). I understood you to say that bonds ought to pay taxes according to their income, then when bringing for convenience ten per cent interest ought to pay more taxes than one drawing five per cent.

Mr. MILLER (Cook). I said or intended to say, Governor, when you undertake to tax bonds or stocks and other intangibles the only way to get at a perfectly fair way of taxation is to tax them according to the income they produce.

Mr. FIFER (McLean). There are hundreds of thousands of dollars invested in vacant real estate around the City of Chicago, aren't there?

Mr. MILLER (Cook). Yes.

Mr. FIFER (McLean). There is not then one dollar of income, millions of dollars.

Mr. MILLER (Cook). Yes.

Mr. FIFER (McLean). Large tracts, and it is paying its regular annual tax also, now wouldn't it be just as just and right to classify that kind of tangible property as it would be to classify this class of intangible property, you speak of.

Mr. MILLER (Cook). I have not advocated the classifying of intangible property.

Mr. FIFER (McLean). I understood you had.

Mr. MILLER (Cook). No.

Mr. FIFER (McLean). Well, I beg your pardon. I will take my seat and bid you God's speed.

Mr. MILLER (Cook). I took a precaution in the beginning to talk against the motion.

Mr. SUTHERLAND (Cook). Against what motion is the gentleman speaking of?

Mr. MILLER (Cook). The one I made.

Mr. SUTHERLAND (Cook). Which one?

Mr. MILLER (Cook). The only one I made. Now, Mr. Chairman, to conclude, it seems to me there cannot be any such thing as a fair uniform taxation of intangibles ad valorem, and for that very reason they will be hidden even if we authorized the classification of intangibles just as they have heretofore. Another thing is this, there seems to be a good deal of sentiment in this Convention and I judge from the sentiment of those in this Convention there will be a good deal of sentiment outside of this Convention against classification on the theory that the intention is to exempt intangibles from bearing their proper amount of the tax burden, and that in itself it seems to me is some reason against classification being put into the Constitution, especially if the advantages of classification are uncertain and somewhat chimerical as compared with the advantages of an income tax, entirely inadequate. Neither can I see why there should be any necessity of this authority to classify, if the legislature is given the right to do it, plus the duty of levying an income tax, that has all been tried. It has been tried in England with success for many many years. Before this was begun, I recall of the London business men complaining rather bitterly in the year 1910 against the excessiveness of a four per cent income tax so I know they had it then and many years before. Germany, I know for many years they had it.

Mr. SUTHERLAND (Cook). I think we will make more progress if I insist on the motion which I withheld, did not withdraw, to table the motion and then we will get ahead.

CHAIRMAN WHITMAN. The Chair remembers you made a motion to table but withdrew it until such time as the debate was closed.

Mr. MILLER (Cook). I will satisfy the gentleman by saying that I am through on this subject. These are, briefly, the reasons why it seems to me that the classification feature is not necessary and not wise. I would like to hear it more thoroughly discussed.

Mr. HAMILL (Cook). I move that the committee do now rise, report and ask leave to sit again.

(President Woodward Presiding.)

Mr. WHITMAN (Boone). The Committee of the Whole, in consideration of the Revenue article, beg leave to report progress and ask leave to sit again.

(Adopted.)

Mr. DEYOUNG (Cook). The Committee on Judiciary Department offers its report, The Report of the Committee on Judicial Department.

PRESIDENT WOODWARD. The report of the Committee on Judicial Department will lie upon the table and under the rules will be printed.

Mr. SUTHERLAND (Cook). I move that the Convention take a recess until eight o'clock.

Mr. GREEN (Champaign). I move as a substitute that the Convention do now adjourn until nine o'clock tomorrow morning.

(Substitute adopted.)

Whereupon adjournment was taken until nine o'clock November eleventh, 1920.

THURSDAY, NOVEMBER 11, 1920.**9:00 o'Clock A. M.**

The Convention met pursuant to recess.

Prayer by the Chaplain.

THE PRESIDENT. In accordance with the resolution adopted by the Convention on yesterday morning, an hour is set apart to commemorate in appropriate exercises Armistice Day. It is fitting and proper that we should pause in our deliberations to commemorate this event. We have in our own body three men who are veterans of the World War, General Davis, Captain Carlstrom, and Lieutenant Six. It is very appropriate that we should invite those men to address us today on the consequences of that world event. It is with great pleasure that I ask Captain Carlstrom to address the assembly.

CAPTAIN CARLSTROM. Mr. President and gentlemen of the Convention, and friends, I speak under more embarrassment today than I ever remember speaking under. I say that to you honestly and frankly. So far as I am personally concerned, I feel it is an imposition on the time of you gentlemen that you should be required to listen to me, so far as I am personally concerned, I mean concerning myself individually, it would be immaterial whether this service was held or not.

I think you will agree with me, however, that it would have been a fatal error had we passed this day without some recognition of its significance. I feel deeply and sincerely the necessity for at least a consideration of those thoughts which must be uppermost in the minds and hearts of the American people on this day. I feel the incidents of the last few years, perhaps more than at any other time in the experience of the American people have been of such a character and have led us through such experiences as to dictate and demonstrate more clearly than ever before the necessity of reverence for unselfish service wherever we find it exhibited.

Two years ago today, my friends, it was my privilege to be in France, and I remember on Armistice night in Neufchateau, the celebration that the people held there. I remember how they gathered in the public square, around the monument of Joan of Arc. I remember how a woman, a French lady, who was a singer of note—they had arranged a little platform around the monument and she was standing on it, and I should say that there were four thousand people, all of the people in that village and neighborhood, had gathered around the square, there were Americans, Russian refugees, Italian and British soldiers, and men of many nationalities and peoples there, principally of course French—and this lady with a voice that rang clear on the night air sang the Marseilles. I know of no piece of music that has the thrilling inspiration the Marseillaise has, and especially we can understand how it appeals to the people of the French nation and in the chorus the great throng that had gathered there joined, with a holy fervor, inexpressible in its depth and sincerity. Somehow it was an occasion which those who saw it, can never forget. It was an outburst of the gratitude of the people to the providence that had led them to victory through the long dark night which had engulfed their nations. We, of the United States, hardly felt the test, and trials that these people had felt across the sea, but we had gotten sufficiently into it to realize its magnitude, and we had gotten sufficiently into it to realize the joys its ending had to bring to the American people, and the news was flashed across the cable to us, how you folks in the United States, when the message came over the wires, let loose all the bounds of your enthusiasm, and joined in thanksgiving at the prospect of the return of those you loved who had left your homes, and at the prospect of a new

settlement of conditions in the world which might bring to the peoples of the earth continued peace and happiness again. And that joy was expressed with a volume and a fervor which has never before been exceeded.

We, who were overseas, were glad with a gladness which knew no expression because we saw the day was at hand when we should return to the land we loved. No man quite appreciates what America is who has not been under the necessity of remaining under foreign conditions and circumstances sufficiently long to get a perspective of what the difference in living in this country is compared with that. We were exceptionally glad because we were coming back to take up the tasks of life where we left them off, with a new joy and a new happiness, because of the hope that the cost that had been paid would not have been paid in vain. There was a wonderful spirit of thanksgiving. I can remember, my friends, perhaps the most touching thing I ever experienced in my life. While the rigors and necessities of service continued this thing did not mean so much to me because I was old enough to figure it was a matter of necessity, but we did not realize just how we felt about it all until we came back on May 24, 1919, and the Governor of the State of Illinois with a party of people from Illinois came out toward our ship as we were coming in, on a harbor boat and they had a band with them which began to play the strains of "Illinois," and during all of the time, for three or four hours, that the boat conveyed us up the harbor, continued over and over again to play that wonderful inspiration to every man who loves the commonwealth of Illinois. There was the Governor and the fathers and mothers of men on that boat and there were their friends in a frenzy of joy. You should have seen it all. I cannot describe it, letting loose from the very bottom of their hearts, well springs of joy and happiness, shouting up to the fellows on the boat. Their little harbor boat was insignificant alongside of the great ship we were riding on through the harbor, they had to look up to the deck where we were gathered. They were shouting and throwing their hats and waving their hands, and then for the first time we realized what it meant to come back home again, and I wish I could bring that feeling to your hearts. I know a realization of the depth of feeling we all experienced that day, would create a deeper love for America on the part of each of us. I believe it does not matter in what capacity a man may serve, whether he occupies the position of private citizen doing the things necessary to bear his humble part in the economic progress welfare of the State, or filling a public position of responsibility, no man can serve his country or his people until he has deep down in his heart such a love of his country that it controls his perspective, directs his judgment and dictates his actions.

I believe, my friends, we all ought to have more regard for America, and realize what it means to us. Time passed and the joy over peace and the return of America's sons seemed to fade, and I will tell you what it faded into, it faded into a sort of Bacchanalian orgy of extravagance and selfishness growing out of conditions we found remaining as the aftermath of the war. It seemed all of the finer sentiments and ideals were lost and we fell back into that condition, in an unbelievable short space of time which left us where Germany had said we stood before America had entered the war and she said she did not fear our prospective entrance in the war because she said "the American people have become so thoroughly imbued with the spirit of commercialism that they have lost their ideals. Ideals are the necessary basis of courage, without which you can have no effective fighting force." We disproved that statement made by the Germans. We spoke with a force and an effect which made a vital impression on them, and on that conflict and won it for the allies. There is no question about that.

What won it, my friends? Because America awakened in her heart to a realization of the value of patriotism and honor. To have re-awakened that spirit in America was alone worth all the war cost us if we retain a realization of how essential to us is the spirit of love of country, the spirit of love of an ideal and the spirit of love of honor; and that is the thing we

should draw from the war. If we did not get and hold this from the war, the war was without profit to anyone, and without accomplished purpose.

The things that I say to you today center around the thought from Kipling's "Recessional,"

"Lord God of Hosts be with us yet
Lest we forget, lest we forget."

You know that I think that that passage should be emblazoned on the lintel of every home in America. It is applicable to every situation today as it was in the olden days of the Jewish people when they were overrun by their barbarian neighbors, about every forty years, and why? Because they had deserted and forgotten their ideals and their dependence upon God.

At Romague I was traveling through that country and saw the field of crosses that was forming and beginning to take shape where twenty-two thousand are now at rest in that wind swept country, where America made her great contribution to the conflict. At Belleau Woods, where other thousands sleep. At Suresnes, down near the City of Paris, in yet other cemeteries in Europe, totaling more than seventy thousand sons of America, are sleeping. They are sleeping there today, and their appeal to America is like that appeal described in the verse dedicated to those sleeping "in Flanders field where poppies grow." If we living shall grasp the torch and carry it on, they shall sleep in peace, otherwise there can be no rest for them because their sacrifice would have been in vain.

Today, as we turn to the more than seventy thousand graves in France, and the other thousands of graves in the United States, the thought comes to us—what does it all mean? Why did we do it? We did it because the challenge came to America—the question was asked—have you still coursing through your veins the blood which made possible, first the independence of the Nation, and then its development and protection against encroachment by those elements of aggression whether from within or without, which sought to destroy its ideals and its institutions. The answer we gave was men, who in forty-eight hours reduced the St. Mihiel Sector, which France and England advised against undertaking because they said "it will cost you too many men for its strategic military importance, and you cannot do it." With characteristic American energy and resourcefulness, we struck from the right and left, pinching off the fortified hill which was the apex of the triangle, which stuck out for four years and jeopardized the line of communication from the rear of the allies, which was an exceedingly important position in a military sense. And at Chateau Thierry at the bridgehead—a picture of it is in my mind—and I hope it will be your privilege to stand there where the Marne River flows down the valley from Epernay to Chateau Thierry and see the bridgehead where the American machine gun crew stood and held the Germans from crossing, hour after hour. We answered them by sending men who, by their conduct and courage, enabled General Bullard to send the message, when he was directed to fall back, as his protection on both flanks had fallen back, "Retreat, hell! the American army never retreats." And they say, and I have no reason to doubt its truth, that a sergeant in desperation, after holding that line hour after hour stood up, looked down the line and yelled "for God's sake men, do you want to live forever, let's go," and they started on and broke the line going forward six kilometers, and shaking the morale of the resisting foe, and starting the march towards victory. And then, too, in the Meuse-Argonne offensive, I wish you could have seen what sort of terrain they had to fight over, where it was impossible for officers to keep in touch with their men, where the terrain was such that it was "every man for himself and the devil take the hindmost." There was one division engaged, that in one day's fighting alone, had seven thousand casualties. With over one million two hundred thousand men engaged in the operations in that American sector, there were total casualties, wounded and otherwise, of over six hundred thousand, think of it, one-half, that was the answer we gave them. Line

after line of entrenchments were taken, the German Army, divided into two parts, with communication broken by the thrust here of the American Army, and Germany compelled thereby to sue for Peace. I speak with feeling on these matters because when I think of those four million eight hundred thousand men today, the principal portion of whom are with us, I think of the wounded and maimed now forgotten being neglected. To me, my friends, that is a matter of profound regret and sorrow. I do not say this in criticism, I say it in appeal to you, do you know that those boys have been found, maimed and wounded, in the county almshouse in Cook county and elsewhere? They are found confined in insane asylums in Illinois suffering from shell shock. How can they, without all the modern science of treatment possibly be relieved. Are they not entitled at the hands of a grateful Nation to exceptional circumstances and treatment? There are a hundred of them, at the asylum at Kankakee today, and those men, we, their comrades, are fighting for. Has America forgotten? My friends, yes, we can well afford to stop in our daily order for an hour, yes you can afford to allow me to inflict myself on you, gentlemen, because this is a great appeal that should strike to the very roots of America's life and honor. We have had exceptional situations in decades in the past of America's life and history, which have developed heroism, which has been an inspirational force in America's life, an appeal for heroic character and deeds. Let us remember it is equally necessary as time passes that we keep alive a love for our country which makes us hope for its supremacy; that we believe in its standards, ideals and character, and want to see them perpetuated, and that it is necessary that these essentials which were inspired yesterday be kept alive for tomorrow. Let it never be said, if we are called on at any future time to give a service like this—by any one—God forbid, our sons grown to maturity and called on for service be required to say, "I don't know, I remember daddy was away a long time, when I was a little fellow, and when he came back they did not seem to appreciate the service he had rendered."

I am not pleading, no, no, for any heroic recognition of a single individual, but recognition of the great army of men. We have gone through a bacchanalian orgy of spending and lavishness, of selfishness and forgetfulness, that followed the war. Let us hope today we are returning to more sane and considerate thinking. Let us keep a better watch and realize the obligations that we owe to these men. Let us see to it every man that gave service to our country, and who is now suffering as a result from injury or disease, be given the most expert treatment that medical science can employ in the hope that his shattered mind or body may be healed. Let us see to it that the love and appreciation which our people give to them be not only evidenced by affording those material necessities in the way of treatment and consideration, but by loving personal consideration, which will make them feel that their sacrifices were not in vain. Let us remember the four and a half million men who returned to this country, and are living here now. Let us see the government discharges its obligations to them in some substantial way, that will show it is not unmindful of the obligation it owes to them.

I believe at least in one feature of the bonus plans, that which would pledge the credit of the United States to any honorably discharged soldier, and give him twenty, thirty or forty years to pay it back, if he needed it, for sufficient funds to buy himself a home. It would not only be a benefit to the soldier but an economic benefit to society, to the Nation, because whenever you put a citizen under his own roof you have given stability and character to his citizenship.

I believe this plan should be recognized, and I believe it is one of the best ways that the American citizens can express in a substantial way their gratitude to these men. To me it is a plan that makes a strong appeal, and it will make these men believe they have not served in vain, and have not been forgotten.

I would like, if you will pardon me, just to read a passage from Mr. Roosevelt's speech made at Saratoga, made within twenty-four hours after

he had received word that his son, Quentin, had been killed. I stood at the grave of Quentin Roosevelt on the 14th of November, 1918, possibly about three hundred meters from Chammery, on a little grassy slope.

It was marked by a cross that the German military forces had placed there before they left; they had built a little oaken fence around it, showing their appreciation of the intrepid character of their foe, and also marked by a cross, which the French had placed there, and also by an American cross with the identification tag which was used in marking a grave. We walked over there, two of us, and I stood by the grave and somehow it was like a shrine, and I remembered Col. Roosevelt and his sterling Americanism; that clarion cry that he used to send out, that was irresistible, a call for character and loyalty that men wanted to follow because it was the cry of a man, with virility of character and love of country that was an inspiration, and I thought as I stood there at the grave of his son, that it was not only lip service on his part, but he gave substantially from his own. I took off my cap and it seemed to me it was a place for a man to pledge himself anew to the traditions of his country, and give himself even if necessary in its service. Mr. Roosevelt said:

"The finest, the bravest, the best of our young men have sprung eagerly forward to face death for the sake of a high ideal; and thereby they may have brought home to us the great truth that life consists of more than easy-going pleasure and more than hard, conscienceless, brutal striving after purely material success—that while we must rightly care for the body and the things of the body, yet that such care leads nowhere unless we also have thought for our own souls and for the souls of our brothers. When these gallant boys, on the golden crest of life, gladly face death for the sake of an ideal, shall not we, who stay behind—who have not been found worthy of the grand adventure—shall not we, in our turn, try to share our lives so as to make this country the ideal which in our hearts we acknowledge—shall not we, in the actual workday business of our world, come a little nearer together and make this country a better place to live in for these men, and for the women who sent these men to battle, and for the children who are to come after them."

I want to thank you for this opportunity to say these things, and may we here in busy workaday affairs treating the material questions which attach to the welfare of the people of Illinois, realize that there are other things necessary to the welfare and ideals of the people of Illinois, than these material questions, no matter how important they are.

May we not pledge ourselves anew today, on this Armistice Day to a faithful allegiance to America, and the lofty ideals which typified the character and actions of the founders of this Republic. May we continue to maintain those high ideals and attributes of character which will lead us to sacrifice personal interests and welfare in the interest of the Nation and of our State and of the community in which we live.

May we not in thought today pay tribute to those who gave their all, and remember those who are with us, and give to them with the fullest measure that lies within our power, a loving recognition of their service, sincere and substantial. It is the least we can honorably do. I thank you sincerely.

CHAIRMAN WOODWARD: I am sure we will all be glad to hear from another veteran of the World War, General Davis.

Mr. DAVIS (Cook). Mr. President.

CHAIRMAN WOODWARD. Delegate Davis.

Mr. DAVIS: Gentlemen of the Convention: On the second anniversary of Armistice Day the Nation bows in silent reverence and admiration before the seventy thousand sons of America who have been laid to rest beneath the soil of France and Flanders; bows its head in memory of the thousands of sons of America who have been buried in the training camps of our own country.

Nearly five million men in uniform, on land, at sea, in the air, were willing to give their lives that America might go on to victory; and all of the people, men and women, rich and poor, young and old, were ready to

give their efforts to those who were in uniform to make them as comfortable as opportunity permitted, and to make certain that American arms were carried on to victory.

"America won the war" was the enthusiastic and cheerful greeting with which the soldiers returning from France were met on the shores of America. In a sense America did win the war. It won the war because it furnished man power at a time when man power was the one thing which stood in the way of complete and final success of the enemy. America won the war in the sense that it furnished men of youth and courage, of dash and character, a sort that has never been experienced in the history of the world, or in any war in which parts of the world had been engaged.

And, although we contemplate with pride the valor shown by the sons of America, let us ever remember that the deeds of heroism and the glorious achievements on the battlefields of France were not altogether our own. In paying tribute to those of our own Nation, let us never forget the contribution to the world which the allied Nations have made; let us ever remember that, but for the stubborn resistance and determined effort of the allied armies, America would never have had a chance to make her own contribution. It redounds to the glory of the armies of the allies to recount the manner in which they resisted the onslaught of the most perfect military machine ever evolved by the genius of the world. And to those of us who had the opportunity to mingle with the armies of the allied Nations the thought is ever present that no injustice must be done to their sons when we recall the deeds and accomplishments of our own.

It was in May of 1918 that our regiment landed in France and was immediately made a part of the British forces. The British and French had not yet recovered from the effect of the German drive in the month of March. They lived in fear of a continuation of that drive; but surmounting that fear was the absolute determination that success in the hands of the enemy would come only with the extermination of the last man who wore a British or French uniform. There was never a thought of surrender; only the resolve to hold out until reinforcements arrived, and in the event of their non-arrival to give the last son in the conflict.

The plan was for the American troops to go through a period of six months' training in the rear of the lines to acquaint them with actual conditions. The truth is that upon the third day after our arrival in France we had been put at the disposal of the British for actual work in the trenches. Never shall I forget the comment of my British Division Commander, who, pointing out the line of the enemy to me said: "If the enemy knew what I know, and what you will know within the next twenty-four hours, they would not remain in their steady position, they would be on their toes and after us, and it would be comparatively easy for them to get us off our feet and into the channel. There are just two things which stand in their way; their ignorance of the condition of our position, and the fact that the kindly hand of Providence is sending us the sons of America to make certain for us a fighting chance."

So the sons of Illinois (many of them residing in this city and connected with us in our work) wearing the uniform of enlisted men, on the third day after our arrival, with spades in their hands, shrapnel bursting over their heads and aeroplanes high above them, were digging another line of resistance to make it possible for the British to hold off the onslaughts of the Germans. Before another week had expired the sons of Illinois, with three or four days' experience behind them, had been given their opportunity, the British high command ordered them to take their place beside their British brethren, to meet the foe face to face, to leave the trenches in the darkness of the night, cross No Man's Land, and there engage in actual conflict with the enemy. They soon learned that they had to fight and fight hard to make any progress.

Within a week after our arrival in France we were matching the wits of the youngsters of America with the seasoned knowledge of the veterans of the greatest war that the world has ever seen; and our fear for the lives

of those entrusted to us and our anxiety due to the realization of our lack of training and equipment, had been allayed by the assurances of these British brothers of ours. They said: "Men like yours cannot fail, men like yours shall not fail. We have never seen any group of men with that determination, with that sagacity, with that courage, which characterizes the men of America, that you have brought to us from across the Atlantic in this hour of trial and tribulation." (Applause.)

Gentlemen, fear is a natural attribute and it dwells within the hearts of all human beings in all walks of life, and where danger is most imminent fear is at its height. It is all pervading; it is felt by the General, by the Colonel, by the Major, and by the Captain, by the Sergeant, and by the rank and file. But greater than fear on the battlefield is that understanding of duty and responsibility which says: "Realizing as I do that my very life may be snuffed out, fearing as I do the effect of a bullet, or the sensation of steel between my ribs, I must go on, even though my life shall be taken, because in going on I am interpreting my orders and carrying out my obligation as a soldier in the service of my nation." In that sense, my dear friends, I am repeating, not the words of American officers, but rather the tribute of the British beside whom we fought, when I say we have had it impressed upon our minds, that, upon a comparative basis with the armies of our Allies, the sons of America on the battlefields of France have shown the highest conception of character known to any member of the human family. (Applause.)

It was about thirty days after our arrival in France, that in the early hours of the morning of July 4th, 1918, the men of my regiment found themselves in the salient known as Hamel. The Australians were on our right, the English on our left. The British high command had determined that it was necessary to wipe out that salient. Prior to that time our men had shown their aptitude for trench life by going out nightly on patrol work in order to bring in German prisoners to furnish identification, but when it came to a decision about leaving the trenches and launching an attack which had to be successful, the British doubted the ability of our men and, on the eve of the attack, decided to take them out of the lines and replace them with their own.

The word reached the men in the trenches. Were they happy; were they glad? On the contrary, they were filled with sadness, courage had left them, the very thought that any military authority had questioned their ability to hold their own, even with the most seasoned veterans of the war, was inconceivable; and they made their own views known. History will record the fact that it was fortunate indeed for the success of the Allied armies that the men of America (and certainly in this assembly I want to emphasize that they were sons of Illinois) were ready to give their lives, and that they willingly remained in readiness to do whatever was expected of them, no matter what the price.

The British high command realized that a much more serious question was involved than the determination of one set of men or another to take part in the attack. They realized that America, through its sons, was offended. A hasty consultation was had and our men, in response to the opportunity offered, said that if they were taken out of the line that night they never wanted to fight beside the British again.

That was the determination of the men themselves, not the officers who commanded them; and they were out side by side with the Australians and the British at three-fifty the following morning, on July 4th, leaving their trenches determined to bring credit and glory to the flag of America which floated over them. So these men went to their duty, and, when the skirmish ended, stood on the victorious side with the British singing their praises, and thanking God that America had raised sons of such good courage and resolution that, after thirty days of training, they were able to fight with equal intrepidity beside men with three years of service to their credit. (Applause.)

The Lieutenant-General, Commander-in-Chief of the Australian forces under whose command that attack was launched and carried to victory,

issued an order which is now on file in Washington, to the glory and credit of American arms, in which he said: "This fourth day of July, 1918, is not the Independence Day of America, but is the Independence Day of the World, for on this morning it was successfully proved that America, through its army, unseasoned and untrained as it was, could hold its own with the best of the troops of Great Britain. Victory shall be ours indeed if America continues to send its sons and they continue their efforts along the lines which it was my privilege to witness on the morning of this memorable 4th of July."

From that day on, my fellow Americans, there was never any doubt in the minds of the British command as to what the sons of America could do when put to the test. And while, in this great democracy of ours, we cannot realize the strength of the hold exercised by monarchs and kings on the minds of their people, we at least understand to some extent the allegiance of the people to their sovereigns, and so can judge of the importance attributed by them to the victory of July fourth and their confidence in the fighting qualities of the sons of America, from the fact that, within thirty days thereafter, the king himself pinned upon the breasts of twenty-two sons of Illinois the most coveted decoration within the gift of Great Britain, in recognition of their personal value. (Applause.)

We think of the last war as a war of huge pieces of machinery, of wonderful guns with a range of ten miles, of aeroplanes, machine guns, trench mortars and other instruments of destruction; but in the last analysis it was a war of individuals. When all the preparations had been made, when the aeroplanes had made their photographs of the enemy lines, and when the artillery had laid down its barrage, when all of the other things had been done to pave the way, it was the individual who had to reach a designated spot and there displace the enemy.

It was in work of that kind, it was in the work of personal application, that the American soldier, again on a comparative basis, showed he possessed the finest and the highest qualities.

On the morning of October 9th, in the second phase of the Meuse-Argonne offensive, our regiment was ordered to cross the Meuse and deliver an attack in the direction of Consenvoye. We had left the British and were brigaded with the 17th French Army Corp. Our position in the line at the time we were transferred was in front of Verdun.

Again, let me say here in the capitol of the State of Illinois, that the sons of Illinois replaced a regiment of French in front of Verdun at the memorable spot known as Dead Man's Hill, where over a million lives were sacrificed to give physical expression to the famous challenge—"They shall not pass!" There again the French did us honor in turning over to us their place at the gateway to Paris. After holding the line, the sons of Illinois launched the initial attack in the Meuse-Argonne offensive from this point, and continued the advance with the French until the morning of October 9th, when the French regiment was to precede us and fall back after two or three hours' fighting, and we were to take its place and go on with the attack.

Everything was working out in accordance with the pre-arranged plan when suddenly, after we had gone on for only three or four hundred yards, our attacking wave was subject to terrific enemy machine gun fire from the right. So terrific was the fire that the major in command of that attacking wave had to halt and get his men to lie down.

He didn't dare break the line, nor did he dare to advance because of the direct fire of the enemy, so he selected a lieutenant and fifteen men to go to the rear and to the right to ascertain the cause of the trouble, and report to him, for, according to the plan, the French were to have covered that particular spot and to have cleared it of the enemy.

Lieutenant Gilbranson, a son of Illinois, with fifteen men, was dispatched to the designated spot; minutes seemed like days to the major while he waited for Gilbranson to report. In about fifteen minutes the firing ceased, and, although Gilbranson had not returned, the major decided to take ad-

vantage of the situation. He ordered his lines to advance, and they went on unmolested by the fire from the right. They made the attack from the front, captured the trench, routed the enemy, and went on and on until darkness stopped their advance for that day.

During the night orders came to continue the attack the following morning. We went on the next day and reached our objective about one o'clock in the afternoon, met a counter-attack of the Germans, which kept us busy the balance of the afternoon, repelled it successfully, held the original line, and began digging in again in readiness to meet another counter-attack.

And then came as it comes at the conclusion of every battle, the saddest hour of all. When an attack is launched, and while it is in progress, the thought which is uppermost in everyone's mind is: "Can we get there?" "Did we get there?" "Did we get the enemy?" "Are we holding?" "Can we go on to the next stop?" But, having reached your objective, when you stop for a moment of rest, the reckoning comes—you ascertain the price which has been paid. What are our losses? who is missing? and who is wounded? These are the questions of paramount importance.

On the night of October 10th, when our roll was called, in our regiment alone during the two days' battle, we had given a hundred and fifty lives, and over six hundred men had been wounded. We had added glory to the success and victory of the sons of America, but we had paid the price. As the names were called, Gilbranson and his men failed to answer. We began to worry for fear that they had been trapped and taken prisoners, so we sent a captain with another detachment to the spot where Gilbranson was supposed to be, to find out what had become of him.

You will remember that in reciting the events of that morning, I told you that the fire was lifted from the line and the attacking wave went on. Here is the reason the fire was lifted, as we got the story from one of the men, who, wounded and crippled, had been captured by the Germans and returned to us after the armistice was signed.

Gilbranson, with his men, reached the edge of the woods from which the machine gun fire was directed on our attacking wave. He could see at the height of the woods the machine gun nest from which the bullets proceeded and realized the situation instantly.

Here that he was (few of us realize that if due recognition were given to him, the star of a general might have adorned his shoulders, for besides being a hero, he was a strategist of the highest character), he realized that to bring news of the situation to the major would have availed nothing; that the fire must be lifted from the line and lifted quickly, to bring about results. He called his little band of heroes around him and explained the situation to them: "Fellows," he said, "there is just one chance that the men in our battle line have, and that chance depends on whether or not we are willing to do the right thing, surround these woods, open fire upon the enemy and keep pumping away until every one drops off. If we do that, the Germans will believe that we have changed from a frontal to a flanking attack; and, when they see that, they will lift the fire from the rest of the fellows and direct it on us. Two or three minutes is all we need, and, if we succeed, it will give our fellows out there a chance to go on. If we do that, Major Gale will win the day."

The men responded and cheerfully took their places, watching for Gilbranson to give the signal to fire. When the captain sent to investigate reached the spot, he saw the sequel, for there on the edge of the woods lay the bodies of Gilbranson and all but one of his men—a tribute to the courage, the resourcefulness and character of the American soldier as it demonstrated itself on the battlefields of France. (Applause.)

Now, my fellow Americans, there were many Gilbransons in our divisions; there were many Gilbransons in the Army of the United States. Their deeds of valor and heroism are recorded in the annals of our Nation. Hundreds regret that they were not given Gilbranson's opportunity to lay down their lives in order that the glory and the name of their Nation might be known throughout the world, in order that the world might know that when America pledges its word, that when America reaches a decision, the sons

of America will ever be ready to make that word good and to carry that decision to action and to successful completion.

The war is over. It is over as far as we are concerned, though we still feel at the present time the effects of the war. The war is not over across the Atlantic; there are thirty separate and distinct wars being waged over there at the present hour. And what is it, I ask you, that they are fighting about on the other side of the Atlantic? Territory, territory, territory; boundaries, boundaries.

Certainly in the matter of war America's record is the best of all the nations of the world. There was always an ideal which prompted America to go into a conflict of arms. In the Revolutionary War, in the Civil War, in the Spanish-American War, in the last war, with us it was the question of an ideal, the determination of human rights, the relation between man and man, the relation between man and government; for the decision and determination of those questions we were willing to give our lives.

That is not true of the wars waged by the other countries of the world. Now, at the conclusion of the war we hear talk about concerted action by all the nations, and the use of arms for backing up the decisions of the League of Nations. They have made a political issue out of the question in the campaign which was just concluded. My fellow Americans, the question as to when the lives of the sons of America shall be given on any battlefield anywhere in the world should never be a question of politics; it should never be an issue for a political party. It is an American question, in which every father, and every mother, and every sister and every brother is concerned. (Applause.)

Relations with the rest of the world of every kind and character—yes; commercial treaties—yes; financial understanding—yes; giving up the interest on the money which the world owes us—yes; making them a present of some of the money—yes; but when it comes to the question of sending the sons of America to take part in conflicts between other nations of the world, I hope that the hour will never come when the life of a single American shall be taken, when a single drop of American blood shall be spilled on another battlefield of France, except in response to the call of conscience of the American people themselves, and as a result of the determination of the people of America as they may speak through their President and Congress. (Applause.)

Never again, I hope, shall any nation, or a concert of nations, as the result of any agreement, have the right to demand that the sons of America be sent away to settle disputes between other nations of the world.

That man who saw the devastation of Northern France; who saw the old men and women and innocent children scattered to the four winds of Heaven; who saw them suffer and die; never desires to see another war. I speak as an ex-service man when I say: That man who does not want to see America embroiled in future European wars, does not want her in a league to enforce peace, a league which may have to declare war to have peace. (Applause.)

Did we enter the war with Germany as the result of any treaty? Did we enter into the war with Germany as the result of any membership in any league? Did we enter the war as the result of any understanding? No. Did we go into it because of any commercial interest? No. Did we go into it because of any fear of physical aggression on the part of Germany? No.

We do not quite realize it at the present time, but the time will come, the time must come, when the world will realize that we went into the war in the service of an ideal. If you have any doubt about it, talk to these men in uniform, and ask them why they enlisted. It was just because of the intangible feeling which permeated the hearts and souls of America, that we could not remain silent, that we could not stay out of the conflict, when the question to be determined was whether or not Germany, and more particularly the Prussian militarism of Germany, should dominate the world. America went into the conflict as a protest against the German attitude of carrying its supposed Kultur at the point of the saber. It was an ideal which caused us to enter the conflict. As an American I hope that only

idealism, only questions of human rights will ever bring war upon us, and then only after all honorable means have been exhausted—no wars as the result of any agreement made with other nations when we cannot know what the future has in store for us. (Applause.)

Now, my friends, it is well for us to consider that Nature itself will put an end to the conflict across the Atlantic. The time will come when through lack of ability to endure, they will lay down their arms and think of peace. When we speak of peace and an understanding between the nations of the world, we, of this great democracy, must insist that there cannot be a right understanding of the rights of one nation as against another until there is an understanding of the rights of one individual as against the rights of another individual. And where in this great, wide world is there a better understanding of the rights of the individual as against the rights of another individual? And where in this great, wide world is there a better understanding of the rights of the individual than in this our great democracy? Where else on earth is there a government which exists primarily for the protection of the rights of the individual, even though those rights may be in conflict with the government itself?

So we Americans must hope that when the hour of peace comes, these warring nations of Europe will turn to the Western Hemisphere, and to our nation in particular, for an inspiration and an understanding of human rights. When they get our conception of the rights of individuals there may be hope for an understanding on their part of the rights of nations, and the respect that one nation should have for the rights of another. When that hour comes, let us take them to the shades of George Washington, Alexander Hamilton, and Abraham Lincoln, and with them take courage and inspiration from the accomplishments of the past, from the soundness and beneficial influence of our institutions, and dedicate ourselves to the service of our nation in the time of peace in the same spirit in which our sons gave themselves on the battlefields of France. Then, indeed, we shall make our contribution toward the ultimate ideal for which our Chaplain offered a prayer this morning—the brotherhood of men. (Applause.)

2:00 O'CLOCK P. M.

Convention met, pursuant to recess.

President Woodward in the Chair.

Mr. GALE (Knox). Mr. Chairman, in view of the situation which has arisen with regard to the Revenue Committee, I ask this Convention to re-commit section one of that report, and I so move.

THE PRESIDENT. The delegate from Knox, the chairman of the Revenue, Taxation, and Finance Committee moves to re-commit to the committee on revenue, taxation and finance, section one of the report made by that committee. Are you ready for the motion? As many as are in favor of that motion please say aye. Motion prevails; section one is re-committed to the committee on revenue.

Mr. KERRICK (McLean). I wish to inquire with reference to this proposed re-committing, which, as far as I can say, is the right thing to do, if it will require a cessation of action until the committee of the majority of the committee have retired and returned a completed report?

THE PRESIDENT. The Chair is advised that the committee report is ready for submission to the Convention at this time.

Mr. KERRICK (McLean). My reason for inquiring was I have not a copy of it, unless one has just been put on my desk. I had nothing to know by which to prepare an amendment.

Mr. GALE (Knox). The report which the committee will submit as section one is that report which has been mimeographed and placed on the desks of the members. The Revenue Committee is ready, and this Convention resolves itself into the Committee of a Whole. The report is now presented to the Committee as a Whole for action.

Whereupon Mr. Whitman (Boone) took the chair as Chairman of the committee pro tem.

Mr. GALE (Knox). (Continuing) I wish to call the attention of the members, however, to line 20 of the mimeographed report. There was an error in the printing of the report, and the first four words made "may provide a uniform tax"; the word "uniform" should be inserted before the word "tax." In line 21 the words "a uniform" are stricken out. In line 22 the word "tax" should be stricken out, so that it will read: "In lieu of (beginning with the second paragraph, line 19) any property tax thereon, the General Assembly may provide a uniform tax on income derived from any personal property in which case the rate of such income tax shall be real and substantial, and there shall be no exemptions therefrom, except as provided in section three of this article."

THE CHAIRMAN. The secretary will please read the report.

The report of the Committee on Revenue, Taxes and Finance was read by the secretary.

Mr. GALE (Knox). Cut out the words "and a" in line 21 of the report as read by the secretary.

THE CHAIRMAN. The Chair will suggest that a proper motion be made to place the matter of the report on the general order.

Mr. GALE (Knox). I move the report be placed on the general order. (Motion carried.)

Mr. HAMILL (Cook). I rise to a question of quorum. I ask the roll be called.

Mr. KERRICK (McLean). I wish to offer the following amendment.

THE CHAIRMAN. It is out of order. Roll call is now in order.

(The roll was called.)

Mr. GALE (Knox). Mr. Chairman.

THE CHAIRMAN. I recognize Mr. Gale.

Mr. GALE (Knox). On behalf of the majority of the Committee of Revenue, Taxation and Finance, I move the adoption of section one of the report as it has been lastly read.

Mr. MACK (Hancock). I desire to offer the following amendment to the report of the committee as offered, which is, on line 20, strike out the word "personal", and in lieu therefore, substitute the word "intangible."

THE CHAIRMAN. Gentlemen, you have the amendment offered by Delegate Mack on line 20; the word "personal" to be stricken out, and the word "intangible" substituted.

Mr. DUNLAP (Champaign). I don't know if the rule was adopted, but I understood, that if we were to consider the majority report again, we would proceed seriatum in consideration of the adoption of the report. I merely ask for information, if it is proposed to adopt amendments, or consider amendments offered here without reference to any particular part of the report. I understood the chairman of the committee to say yesterday that the reason the motion was made to adopt the amendment that was offered was that because he thought the proper way to consider the question would be to take it up seriatum so everybody would have an opportunity to vote on the proposition. I just ask for information.

Mr. GALE (Knox). The chairman of the committee has no power whatever to determine how this Convention here in the Committee as a Whole should consider the committee reports. I do think we did say much about the desirability of getting this report clearly before them in such a way as to enable them to take it up paragraph by paragraph and consider them in their order, as Senator Dunlap has said. Of course, I have no power to commit this Convention to any course of procedure.

Mr. MACK (Hancock). I think there is involved in that particular matter which I have embodied in this motion, something that you should be disposed to have gotten clearly before the delegates before they take up these other matters. I think there is in that, Mr. Chairman, to a certain extent, a matter which would come largely to the consideration of the members touching the entire proposition as offered, and after they have eliminated that part, then perhaps, they could better settle what they want to as to each separate section. In that I find no fault with the policy of the gentle-

man, except that particular belief that the Committee of the Whole then, perhaps, would like to have this matter settled and determined and know how the proposition will be settled before they enter upon it section by section determining all that is in it.

Hence, Mr. Chairman, believing that I am voicing the sentiment of those who are inquiring, not only of what I may say, but from others much better informed than I to speak on the subject, I ask that we be allowed to present this matter and get this vital question going practically to the whole proposition before this house, and then if it is desirable, to take this whole thing up line by line.

I would like to have the privilege, to do justice to this Convention, to get that very extremely vital matter before this house. I do not unnecessarily want to take up the time of the members of this committee. I know that this matter will be presented thoroughly before it is through. I want to say, however, in opening, Mr. Chairman, in order to set myself right with this committee, as to my attitude with regard to the matter yesterday presented, that I believe I ought to suggest to the members of this committee here, that this matter, as I now understand it, as a matter of course, is out of the way, and that a new proposition here—a new proposal—having been presented by the Committee on Revenue; that we now stand facing a proposition, which, in no way, is affected by a motion that prevailed yesterday.

Mr. Chairman, I am entirely satisfied that that should be so. I want to say, in deference to this committee here, that I disagree with them in regard to the proposition presented. And while members have done the kinds of things that may seem to better this proposition, it has been suggested, and I feel, personally, that we can arrive at a result in this as to what is just right, and essential. I shall be glad, indeed, if this proposition can be modified, so that this particular proposition shall read as it should. When this principle was written by the committee and brought in it was insisted on by a very able gentleman who made a very able presentation the other day of his position. But the tremendous force of logic which he brought home was not convincing. Now the matter of classification having been actually waived, we now approach the question of the meaning in the language I have suggested, of the words that are there modified. Now, to get squarely at this matter, and to understand each other thoroughly, I wish to ask the indulgence of this Convention to take up this proposition. I believe it ought to be taken up line by line, and I will read it down to this point. While I am reading this I will be glad if you will follow me, because it will help out, and I need help in this matter. If you will take this paper and follow me down, we will all get down to the very gist of this extreme, vital matter. I believe we ought to do this, gentlemen. This proposition has just come before us.

“ARTICLE NINE.

REVENUE, TAXATION AND FINANCE

“A substitute for the majority report on section one.

“SECTION 1. The power of taxation shall never be surrendered, suspended, or contracted away. All taxes shall be levied and collected under general law and for public purposes only. The General Assembly shall provide for the levy of taxes upon property by valuation so that every person and corporation shall pay a tax in proportion to the value of his, her or its property, such value to be ascertained by some person or persons to be elected or appointed in such manner as the General Assembly shall direct and not otherwise.”

In that first paragraph is embodied and set forth a general provision for the tax upon all property. Now then: (Paragraph two and three.)

“Taxes may be levied also on incomes; if the income tax be graduated and progressive the highest rate shall not exceed six times the lowest rate;

and not exceeding \$500 to a person not the head of a family whose total net income is less than \$1,000 and not exceeding \$1,000 to the head of a family whose total net income is less than \$2,000 may be exempted from income tax. Taxes levied by valuation upon property in this State and paid shall be deducted from tax on income derived therefrom by the person or corporation paying such property tax.

"In lieu of any property tax thereon, the General Assembly may provide a uniform tax on income derived from any personal property in which case the rate of such income tax shall be real and substantial tax, and there shall be no exceptions therefrom except as provided in Section 3 of this Article.

"Taxes may also be levied on privileges, franchises and occupations uniform as to class.

"The above specifications of the objects and subjects of taxation shall not deprive the General Assembly of the power to require other objects or subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this Constitution."

Now, gentlemen, it will be remembered that this matter came before us in the minority reports, both of them, and in the suggestions made by me yesterday as income tax upon intangible property. I am asking that the word "intangible" be substituted in front of the word "prosperity" because, innocent as that word may look, if you do not stop to consider it, it becomes vital and the very gist of the whole matter. In fact, gentlemen, I do not believe I am doing any violence at all to the statement I make, when I say that, personally, if I were compelled to choose between the two propositions, I would consider that that first report filed by these gentlemen containing the broad proposition of classification, as much as I am against the same, because, in my mind, gentlemen, it is more open. I am not going to say that this committee which has met to do its work honestly and fairly is attempting, in any way, to mislead this Convention; but I am saying that the use of the word in this sentence, though probably not intended by the committee, is misleading, and that the casual observer is here apt, if he does not carefully consider the import of that word used in that sense, to be misled by the same.

Gentlemen, I undertake to say, that if you consider this thing very carefully on the proposition of that word "personal" before "property"—income tax on personal property—you will find that this report is not more vicious in any one of its terms or essentials than results from this direct classification. I am opposed to that. I believe that this convention is. Now, why, gentlemen, should this be done? I could speak with much more light upon this subject as to the reasons suggest when I have heard from the other side. A few things occur to my mind that I am going to suggest, and they are: It has been said to us, we who came from these particular districts down in the country that consist chiefly of prairies, and where the industrial interests are farming, that if you will accept this proposition you will at once put yourself in a position that will make your horses, cattle and implements all exempt from taxations. Let me say gentlemen that statement does not apply here. I came to this convention with a feeling deep down in my soul that we ought to arrive at a just, fair, and reasonable conclusion as to the income tax, and that this section one is the soul of the whole thing; it is the Hamlet of the whole play.

Gentlemen, let me say, that if that very proposition before us passes, and it is our fault, we had better never been elected; better never have come here. We have now here only the soul of the whole thing. And if we fail, it will only result in having taken our time, and the time of the people, and having spent outrageously half a million dollars of their money. Therefore, I say we must carry back to our people in our hands, gentlemen, something that we can suggest to them as our relief for the tax problem.

Gentlemen, believing, as I believe, in the Constitution and the laws of my country, I believe that this proposition is a violation of every fundamental of the Constitution.

It occurs to me now, gentlemen, that the argument suggested a moment ago that it exempts anybody's property, holding it relieves the farmer, or the banker, or the capitalist, or anybody else, does not appeal to me in any sense. Therefore, if we go back to the people and present to the six and one half million people of the great State of Illinois a Constitution which will be accepted, it will be a Constitution based, sir, upon the fundamental principles laid down in the first article of the old Constitution, which you, sir, a veteran political servant and statesman have so ably urged. And, sir, so that it may be ratified by everybody, it must be absolutely equal and just to everybody, and there must be no exemptions, except those exemptions in income tax which are proper and just to the man working with his hands, who, as stated by Theodore Roosevelt, was one who was unable to take care of himself, and must be taken care of.

Gentlemen, having read down that proposition, if you will look into the fundamental use of the word "personal" you will find that it deprives the Constitution of the principles of absolute equality laid down in the first paragraph of the old Constitution. Why? Can you tell me in the working of this proposition how, if you put in the domain, or if the legislature, gentlemen, should put in the domain, of taxation by income, the chattels upon the farm, you are going to account the income; will you tell me, if you can, if you go to the great cities, or to the village, to the store of the merchant, or the little corner store, if you can take the goods in those places and place them in the domain of taxation by income and collect that under a personal income tax, the endeavor of the man who has a small capital, will be accounted for, and that the income rates that man derives from his personal service in the use of his capital, will be covered by the personal income tax. That is provided for in this section. And if this section does not provide for it, it will be provided for in some other section. Will you tell me what the people will say when you go back to them, first, as to the vast amount of chattel property which produces no income at all and will be exempted from tax, and the vast amount of property contained in the households throughout the land? I understand somebody will say that the small household with its little chattel property in the State which is used for the humble use of someone laboring with his hands, should be exempted. I have no objection to that. I do not object to protecting the man with the small income. But, gentlemen, you lay down the proposition to the people of this State that you are going into the homes of others who have more and are exempting that property from tax, and that you are reaching out into the domain of the chattel property of Illinois so that shall be exempted from taxation.

I want, now, largely to make my remarks to the suggestion of the people who have this idea in their minds, I have no doubt honestly. I want to ask those gentlemen when they come upon the floor to tell us how they view personal property, or chattel property, how that can be assessed without any trouble, without the difficulty that confronts us with intangible property? I want to ask the gentlemen to tell us how you are going to reach that kind of property.

As I understand this Constitution as it stood in the past, and will stand, it leaves in the hands of the legislature the adjustment of every single thing that is to be determined in the relation of chattel property, of private individual property, to the chattel property of the great corporation. All those matters are in their hands, and in all possibility that might come out of the juggling of that property and of listing the status of its income and the difficulty of tracing that income, settling the income on chattels from the general income. There is reached thereby a situation that seems practically impossible. You, gentlemen, who are familiar with a situation like that and are now against the theory of classification, I want to say to you that this proposition, in my mind, is classification in absolutely its worst form. It would be fair, Mr. Chairman, it would be more honest, it would be more reasonable, it would be easier obtainable to say that all personal property should be taxed, and directly admit to the voters that you expect to make a distinction between different classes of property.

It seems to me that the hardest thing in the world to determine would be the income on the ordinary tangible property. I want to say to you gentlemen here now in closing what I had to say in the opening of this proposition, and to set myself clear, I will say, that the farmers do not want any exemption for their chattel property; they do not want their horses and cattle exempt; they do not want anything exempted; they wish to bear their part, to do their duty, and they will continue, sir, if you say so, to bear their unusual burden that they have born in the Constitution of Illinois for nigh one hundred and two years.

Now, gentlemen, in leaving, I ask the gentlemen on the other side of this proposition that they explain to us, clearly, distinctly and understandingly the reason why this word should go in. It is not necessary for me to suggest the reason why "intangible property" should go in. Gentlemen, that theory of this proposition has been asked and re-asked until you understand the reasons why there should be an income tax upon them; but every reason that exists for an income tax upon intangible property, is a reason against an income tax on tangible property. There is no reason whatever; and, I want to say to you gentlemen on the other hand, who are not wedded to this proposition, and are not insisting upon standing for this proposition, to look at this matter; I ask that you look at it squarely; consider whether or not you can vote for this proposition and then go home and carry to your constituents a constitution, in doing so, that provides for equal, absolute, just, uniform, and fair taxation. In other words, Mr. Chairman, I do not want, in this proposition, to yield, if I can avoid it, a single jot of equal taxation; if it is necessary, sir, not to yield that in relation to tangible, chattel property that must be retained in the domain of equal fair, ad valorem tax; and the distinction that applies only to intangible property. I only ask you gentlemen in closing to consider with me the mighty duty devolving upon the chairman of this convention, and realizing the fact that we have got upon our hands the most solemn duty that we have in all this convention. It is a matter that requires the wisdom, and the power, and the light—I will not say the integrity, because every man here has come with his soul full of a desire to do the right, just, and fair thing—of every member of this convention. If the members here do not do the right, just and fair thing, it will be because they are misled by an error of judgment.

Mr. Chairman, I leave this in the hands of the convention, and only ask that this convention in considering this matter shall consider the tremendous responsibility, and then vote upon that in framing, not only this proposition, but the entire subject matter of this proposition.

Mr. DUNLAP (Champaign). Just what sort of property is intangible? If you use the word "intangible" is that definitely understood as to what sort of property it is?

Mr. MACK (Hancock). I realize that the question among lawyers has been considered a question of some doubt. But, I realize also it is a proposition that has been used, I imagine, and that while I could not give the gentleman an accurately clear definition of it, I believe that the gentleman with me understands that in speaking of intangible property, we are speaking of all those diverse and numerous kinds of property that do not exist of something which is real, which can be reached and touched, or taken down, and which is possessed of quality and amount, but consists of bonds, notes, and securities.

Mr. DUNLAP (Champaign). Would it require a court decision to determine what was intangible property unless it is defined?

Mr. MACK (Hancock). I do not believe it would, while I would be very glad to hear with great interest any suggestion as to how that would be taken care of. I would say at this time to the gentleman, wise as is the suggestion, that personally I would not be in favor of attempting to define the term in the Constitution.

Mr. DUNLAP (Champaign). Couldn't that be safely left to the legislature?

Mr. MACK (Hancock). That is the very best answer given. I do not feel like attempting to define this or any other term.

Mr. RINAKER (Macoupin). Mr. Chairman, I favor the amendment as offered by the gentleman from Hancock, but as he was talking about it, I was looking at this line in which this amendment is proposed. It seems to me that it could be made a little clearer and could avoid a possible interpretation that this income tax may be levied upon one kind of intangible property and not another. It occurred to me that the amendment should be so framed as to make more clear just what it is that we seek to do. It occurred to me that it would be clear if this line 20 were amended to read "may provide a uniform tax" on all income derived from intangible property.

Mr. MACK (Hancock). I am perfectly willing to accept that, and if the committee consents it may be adopted in lieu of mine.

Mr. RINAKER (Macoupin). I can offer an amendment that would make the line read in that way.

Mr. HAMILL (Cook). That portion of the gentleman's amendment is an amendment to the amendment, and a portion of it is an amendment to the proposal as made.

Mr. MACK (Hancock). I have accepted it.

Mr. HAMILL (Cook). You accepted it in lieu of your amendment?

Mr. MACK (Hancock). I do. Maybe I do not make myself clear. That is what I intended to do.

THE CHAIRMAN. Is there any further debate on this?

Mr. HAMILL (Cook). Is it understood by the gentleman who proposes this amendment that under the article as it is formed, the General Assembly could classify the intangible property from which the income was derived and impose different rates upon income derived from different properties.

Mr. RINAKER (Macoupin). If the language would prevent any possible classification of intangible property. It seems to me that the language as it was would allow classification, or selection, and I think, this language would prevent that.

Mr. GALE (Knox). The delegate from Hancock has given you a very eloquent speech on his view of this report, and on his reasons for this amendment. Now, I wish to say in presenting this report on behalf of the majority of the Revenue Committee, that the Revenue Committee presented the modified report, not because it does not believe that the original report which was presented was really a better revenue section than this, but because so much objection has been raised here to the classification of intangible property, and that if it were possible to draw a section which should meet with substantial unanimity of support in this convention, it would be, if fair, the best thing for the convention, and, for the Constitution which it shall draw. The majority of the Revenue Committee felt that in making a report in this form they were presenting a report on which practically everybody in the convention could agree. In this report as presented, the legislature is left the power which it now has to levy ad valorem tax upon all forms of property whether real or personal, tangible or intangible. They are then given the power in lieu of the ad valorem tax to apply to any personal property an income tax as a substitute for and in lieu of a property or ad valorem tax thereon. It being felt that if that substituted income tax were placed upon such property—I do not believe it would be contended otherwise by the delegate from Hancock; at least he did not so contend—it would be manifestly unfair and unjust to have both taxes applied at the same time. The present system, we have felt, was a failure and the people of Illinois felt it to be a failure, or we would not be here now. We have sought to give the General Assembly the right by means a substitute income tax, or in lieu of an income tax, to eradicate the inequalities of the burdens of taxation. I quite agree with the gentleman who has just spoken, that absolute equality and justice should be our goal. But absolute equality and justice we never shall reach. Substantial

equality and justice is as near as we hope to get; and we all know that substantially we have not had that justice. The only difference between us is whether or not the General Assembly shall have the power to substitute this income tax upon intangible property, and so, in that way, I go hand in hand with the delegate from Hancock; but whether it shall not also have the power to substitute this tax upon other forms of personal property, there is our difference. I do not think that there are other forms of personal property upon which this tax should be substituted. I believe very strongly that it should be substituted for the ad valorem tax upon intangible property, which, under our ad valorem tax substantially escape taxation, whose income could be reached by this substituted income tax. I can think of two classes of property myself which I will give you as an illustration. In the first place there are stocks of goods and merchandise. Now as it stands, if you attempt to levy a tax on that only on the ad valorem basis, these things happen: The merchant carries a stock of goods worth, say, twenty-five thousand dollars. On taxing day he cuts his stock down to a very small amount, and he escapes under the ad valorem tax a reasonable burden of taxation. Under the income tax on the income received from the handling of his goods, he would have to pay a fair amount. There is another kind of merchant who would be reached under this who is not now reached. Mr. Chairman, it seems to me that class of merchant never will be reached under the ad valorem tax. That is the merchant with the enormous stock of goods of possibly two, three, four or five million dollars. I do not know exactly the amount because in my town they don't have them. Those merchants reduce on assessment day under the ad valorem tax their stocks to a very limited amount and thereby they get out of and avoid the ad valorem tax. Under this provision, the legislature, if my suggestion is true, would reach the income from those goods and get a reasonable return for the State of Illinois.

Mr. RINAKER (Macoupin). Why wouldn't he under the provision for a general income tax?

Mr. GALE (Knox). Under the provision for a general income tax we would get something out of them, but we would get nothing more out of them on that than we would get at the very present, having that income tax. If the general income tax is levied in addition to the ad valorem on all other kinds of property, then all other forms of property ought, in fairness and justice, to pay their reasonable proportion in addition to that other form of income tax. Now they do not do it. This does not compel the legislature to do that, if it is unwise. But it gives them the opportunity to do it if it is wise. The amendment offered by my friend from Hancock deprives them of that possibility. Here again he says that the farmers are not asking for any exemption. I do not think they are asking an exemption, Mr. Chairman; but here is a farmer who is also a cattle feeder. He has stocks of grain on hand. He does not have these stocks of grain or cattle on hand if he can avoid it. Often it is impossible to get rid of them. Oftentimes an assessment day he can get out of any assessment upon them or any tax upon them, whereas, if the legislature were enabled to levy an income tax as a substitute for the property tax, he would, in effect, be paying his property tax. And, Mr. Chairman, he ought to pay upon them precisely as the merchant who owns the stock of goods should pay. Of course, I realize, Mr. Chairman, there is one form of property that if the legislature chooses so to do, would be exempt, or could be exempted in this, and that is, household furniture; and since the stock, and tools on the farm do not actually pay any income; and since the tools of the various trades do not pay any income, if a substituted income tax were placed upon them, since they have no income, they would not pay a tax. Mr. Chairman, there is very much to be said in favor of the theory of the household furniture. There is considerable logic in the theory that tools and animals used in working a farm, and that sort of thing, should not be taxed. It is to the interest of everybody that those things be adjusted so as to be consistent with the working of the farm, with the proper

handling of the factory, with the proper kind of conformity in the home. Now this does not require, this majority report does not require the legislature to exempt those things. I admit it gives them the possible opportunity to do so, and therefore we have the tax we get by ad valorem means. How much do you suppose, Mr. Chairman, we get on household furniture—eighty-eight one hundredths of one per cent; and the stocks of the farm, the animals and tools on the farm; and the tools of trade in the factory are not that much more. I told you, Mr. Chairman, it seemed to me that it is a very serious question whether this opportunity should not be left to the General Assembly to say, if you please, “we won’t tax intangibles on the ad valorem basis, because it does not work. We will levy an income tax in lieu thereof upon the income intangibles.” I have no objection to that word. Upon all income from intangibles makes it at a rate high enough; and there is no limit on the rate here, so that will pay a reasonable and fair amount, and thereby decrease the taxes—the over-burdening tax—which are paid and always will be paid under the present system. It is a question of whether there should not be allowed to find out and determine a better means. We have got a State Tax Commission nowadays so that these things can be found out; and it should be determined whether an income tax from other forms of personal property can afford a more reasonable and just revenue than can be secured merely by the ad valorem system. Of course, it is substantial equality and justice that we are attempting to attain. But don’t you attain it, gentlemen, it seems to me that you do attain it, far more when you leave both open to the legislature to attempt to get these things done, than when you shut the legislature up absolutely. I cannot understand how this provision of the majority report can be regarded as, in any manner, an attempt to favor intangibles, or an attempt not to favor them; how it can be regarded by anybody as anything more than what I believe it to be, to-wit., an attempt to leave to the legislature, in their hands, to develop the proper system of taxation for the State of Illinois. I believe, Mr. Chairman, that that could be done by the classification of intangibles; but I am willing to concede, in order to secure somewhere near a substantial unanimity of opinion, that possibly this other way is a better way to do. I hope the amendment of the gentleman from Hancock will be defeated.

Mr. CARLSTROM (Mercer). I have sat and listened to this discussion, because I have desired to take up the time in hearing what the other members have had to say rather than take the time of the Convention with what little I know of the subject. Now, let us get down to “brass tacks”. This substitute proposes to abandon a substantial proportion of the visible property of the State of Illinois; it authorizes the abandonment of it for the purpose of the ad valorem tax. Do you know what this thing means when you get it down in plain English; it means that the legislature will——

Mr. HAMILL (Cook). I rise to a point of order. The gentleman is not addressing himself to the proposed amendment.

Mr. CARLSTROM (Mercer). If the gentleman from Chicago will wait just a moment, I think I will get there.

Mr. HAMILL (Cook). I do not want to interfere, of course, if you are going to address yourself to the amendment.

Mr. CARLSTROM (Mercer). I think that the gentleman from Chicago will concede I have not taken a whole lot of time of this Convention. I think I can proceed in my own way.

CHAIRMAN WHITMAN. The gentleman will please address himself to the amendment.

Mr. CARLSTROM (Mercer). The sum and substance of this whole thing when reduced to plain terms is this. This tax authorizes the legislature to apply an ad valorem tax on real estate, and then there is a provision for an income tax that may be levied. The whole proposition could be made obvious leaving the ad valorem tax just as it stands on all property, all tangible property, and authorizing the legislature to prescribe methods or means for the realization of the taxes from intangible property. But the real sense of this proposition as it now stands is, as I said, that it re-

sults in the absolute classification of taxation, and enables great burdens to be applied to all personal, all chattel property, as well as retaining the only object upon which an ad valorem tax could be applied with certainty, the real estate of the State of Illinois.

Mr. HAMILL (Cook). As a matter of fact, does it not permit the very same thing that you say that it does not?

Mr. CARLSTROM (Mercer). It permits that, but it permits the other, senator. It permits, if the legislature wish, to retain the old method of merely the income tax, supplementing the old method, using the income as a supplement thereto. But it goes further in this clause to which the amendment is offered, it permits the elimination of all personality from ad valorem taxation, and that is the viciousness of it, in my judgment. I believe that we should retain the basis of the taxation, including the personal, which would apply an equitable ad valorem tax burden upon all visible property, and then seek some method, to find this property that we have not been able to find for taxation. That is the proposition we have got before us, and not to exempt under the classes of property, which experience has taught us has been taxed properly.

Mr. KERRICK (McLean). I am in favor of the amendment. The suggestions that have been made have overlooked some others that might be made. I can think of many kinds of personal property that would amount to a very considerable source of revenue, that have entirely escaped taxation. If the amendment should not prevail, for instance there are some people perhaps who have hundreds of thousands of dollars worth of diamonds which produce no income; and if we start an investigation and inquire that would perhaps include a very long list of property of the value of very considerable amounts—jewels of all kinds; expensive ware, silver-ware, and those things. This can be extended to tools; and the suggestion has been made her that no income is derived from tools. I think that a mechanic's kit of tools, without which his wages would be perhaps two or two and one-half dollars a day, but who, with his tools gets ten to twenty-five a day, is a source of income, I think, that should be taxed. Then take farm implements. Without them no income could be derived from the farms; these implements which can be classified, would be a source of taxation. I think the delegate has suggested practically the only source in this amendment where defeat would operate to produce a considerable amount of revenue; that is the turn over; and it is a very considerable matter which is enough to require one to reflect about which side of this is right, but as against that, there are very many kinds of property which may properly be classified and probably would be classified.

Mr. GALE (Knox). Isn't it true that under the majority report as it stands, the legislature could levy a tax upon the income from stocks of goods and yet keep the ad valorem tax on those other kinds of personal property; isn't that a good reason for having that term in the report?

Mr. KERRICK (McLean). I will confess that perhaps I have not studied that well enough to say yes or no at this time. I would propose, however, that an income tax such as would be provided under this provision, without the amendment, would probably not be sufficient with any power to levy on the stock of goods to produce a revenue in proportion to what should be produced; that would be my idea. However, in a general way, I will conclude where I started, and say, that this amendment seems to me to be of considerable merit, and because of that, without its having reference to what I may think of the proposition as actually set forth without this amendment, I favor the adoption of this amendment. I would say, by all means, what the chairman of the Committee of Revenue has said. I would be perfectly willing to have it put in, should it be put in. There is nothing contained in it that I am opposed to. This amendment, this article, leaves the legislature at liberty, in my judgment, to select certain kinds of incomes on which to levy an income tax, and leave others go without the tax. It is just simply an income tax without saying it shall

be upon all classes of intangible property. I presume the legislature would so interpret it. But it might be at liberty to levy certain kinds.

Mr. HAMILL (Cook). May I ask the chairman of the committee whether it is the intention of the committee in its report to permit the General Assembly to levy an income tax upon either kind of property, whether tangible or intangible?

Mr. GALE (Knox). It was the supposition that under the language which they used all kinds of tangible property would pay the same rate, a uniform rate; all kinds of personal property which were included in the law would pay an equal and same rate.

Mr. HAMILL (Cook). Is there anything to prevent the General Assembly from passing a law to this effect; that in lieu of the ad valorem upon stocks of merchandise that income derived from stocks and merchandise pay the income tax at the rate of two per cent; and they pass another law, that in lieu of the ad valorem upon tools and machinery, the income tax derived from the use of the tools and machinery should pay an income tax at the rate of three per cent; and then pass another law that, in lieu of the ad valorem tax upon bonds the income derived therefrom should pay the income tax at the rate of four per cent; and another law that, in lieu of the ad valorem tax upon mortgages the income derived therefrom should pay an income tax at the rate of five per cent?

Mr. GALE (Knox). I would say that it was the thought of the committee that you might provide a uniform tax on income derived from any personal property, in which case the rate of such income tax shall be real and substantial, a uniform real and substantial rate; that that rate would have to be uniform upon all of the property therein included.

Mr. HAMILL (Cook). That does not answer my question.

Mr. GALE (Knox). I meant it to answer your question. I thought your question was whether or not we felt the rate would be uniform on all these properties. I answered you that we thought it would be.

Mr. HAMILL (Cook). It might be uniform on all property included in the law; but what would prevent the passage of another law providing a different rate on different kinds of property. I am asking you for information on what your purpose is. I doubt whether the language is adequate to that end. I am now discussing the language of the original proposition and not of the amendment.

Mr. LINDLY (Bond). I am for this amendment. I believe with the gentleman from Mercer, Mr. Carlstrom, that all property that is possible, should be taxed with an ad valorem tax; and I believe that this report of the committee opens the way and the door to do just exactly what the gentleman from Chicago asked the question concerning; whether any stock of goods would be taxed an income at the rate of two per cent. Now let us see what that would do. I live in the country where we have small stocks of goods. Let us say a man had twenty-five hundred dollars in stock, merchandise, and he took half of the valuation of that, which would be twelve hundred and fifty, and five cents on the hundred would be \$60.50. Suppose, now, that the income from that would be five thousand, and you tax the income two per cent. You would get ten dollars tax from this stock, when, under the ad valorem method of taxation you would get sixty dollars, or at least about that. It would run from four to six times as much on the stock of goods no matter how low it run, you would receive a tax from under the ad valorem as large in proportion as you would from the income tax. I say, if you are going to tax the farm and the town lots and your city property ad valorem, tax the stock of goods ad valorem; and if you want to tax the income, tax the income the same as you would tax the other fellow's income, adding his visible property, and taking it from the tax that he pays, and not open the door at anytime or anywhere to let him get out of paying the taxes that he ought to pay; and for that reason I am in favor of adopting this amendment.

Mr. Chairman, I will direct myself to the question before the Convention, before attempting to discuss this proposal in its entirety. The propo-

sition is that the power to substitute the tax for an income tax—substitute that tax for a valuation tax—shall be limited to intangibles alone. The chairman of the Revenue Committee has brought our attention to the situation that would arise with respect to the stocks of merchandise, and I think, perhaps, in considering this question it will be necessary to consider in its entirety this article, and particularly, that sentence in it which reads as follows: "Taxes levied by valuation upon property in this State and paid, shall be deducted from the tax on income derived therefrom, by the person or corporation paying such property tax."

It seems that we are all agreed that if the authority should be given to the legislature to substitute an income tax for a tax by valuation, that that ought to cover intangibles. The question is whether or not it should cover tangible personal property as well. The use of tangible personal property for the sake of making a profit is sometimes involved, and it is difficult, and almost impossible to tell whether the profit was derived from the use of the property. If we deprive the legislature of the authority in particular cases to substitute a tax upon tangible personal property, according to its income, that may leave them in the position of greater difficulty in forming legislation under this section of the Constitution. That remark that I make is more in the form of a question than of an expression of an opinion. But I wonder, for instance, in what manner the legislature (assume that we limit its power of substitution to intangible properties alone)—I wonder in what manner they would take the problem of taxing the mines and the oil wells of this State. It was the conception of the members of the committee on taxation and revenue that the use of the words "personal property" would give the legislature sufficient authority to substitute an income tax for the valuation of property tax in the case of properties of this kind. For my own part I am uncertain; but I know it to be a fact in the operation of these properties the right to take the minerals is frequently separate from the right to the land; that is to say, that the right to mine is on a royalty separate from the owning of the land, and profit is made in the exercise of that privilege by the use of the tangible property. The idea of substituting an income tax for a valuation tax is not to save anybody from the payment of tax that he ought to make to the State. It was suggested that the idea would secure greater and larger revenues to the State. In effect, the question that I am asking is this: Will the availing of this authority to free the tangible property in this respect, as the intangible property is treated, will the effect of that be a hampering of the power and the ability of the legislature to get the taxes that they ought to get out of certain classes of tangible personal property? When the gentleman in speaking upon the question said that the difficulties in taxation in this State arose out of the treatment of intangibles he was in error, if he thinks that is the only difficulty this State has encountered. We have difficulties in connection with the collection of taxes upon tangible personal property; the situation with respect to the taxation upon household goods is a serious one. The imposition of an income tax brings into the army of tax payers an enormous amount of men who never before have been tax payers. It makes them participants in the responsibilities of conducting the government; it offers us the opportunity, if we choose to take it, should circumstances and the future make the practice desirable, to find some solution for that perplexing problem of taxing of household furniture. The State of Illinois has probably spent a great many dollars in collecting this tax, more than it receives from the tax; and it may be that the collecting of the tax is almost the fountain source of corruption of public opinion about tax in the State of Illinois. The first lesson that the young citizen gets in taxation is that of having to spend all his money in the acquisition of household furniture, until he has acquired his first piece of property—his household; and should he have it taxed at one-tenth of what he paid for it, the unfortunate part of that is that it instills into the young man's mind that the function of all taxes is to deprive him of part of his property. In that way the system is open to criticism; and

thereby he, the young man, becomes confused in all his ideas of his relation to the State. Now, I do not favor the exemption of this class of property from taxation; to tax such property on income would practically exempt that property. But I wonder if at this time it is necessary or advisable to tie the hands of the legislature so that they can do nothing more than has been done in the past toward the collection of this admitted failure.

Mr. FIFER (McLean). I think that if the amendment offered by the member from Hancock is adopted, as I think it should be, we can entirely dispose of this revenue question. The proposition provides an income tax on both tangible and intangible property. Can any member of this Convention imagine how you can determine accurately the income from any proportion or part of the tangible personal property in Illinois. The distinguished chairman of the committee pointed out two classes of property—stocks of goods in a store. How could, for the purpose of taxation, any taxing authority determine what the income is, not from the business, but the stock of goods? Generally, the owner of the goods is a worker in the store himself, and has other members of the family in the same occupation. He would of course swell the value of his services and his children's services; and what he would allow for fuel, light, rent, and shelf wear. It is out of the question. It could not be ascertained with sufficient certainty to fulfill the requirements of taxation. The other instance cited by the chairman was the farmer's tools—his horses and his machinery. There are farmers upon this floor and let me address myself to them, and call upon them to answer, how they would tax the income derived from the horses for any single year, and how they would tax the income from the machinery. There are seventy-five acres of land in my town covered with machine shops of the Chicago and Alton Railroad Company. They have doubtless a million dollars worth of tools and machinery in this shop; how would you determine the income to be derived from those tools. It is impossible to determine it for the purpose of taxation with sufficient certainty. And so on you could go through the whole list. Another thing he said was, that intangible personal property was escaping taxation and you could select it out. It would be a dangerous element or power to place in the hands of any single individual or a legislative body, to single out, not as a class, but as certain kinds of business, the farmer's machinery, and all that. That is the worst species of classification that could be presented to this Convention. That has not been one of the difficulties that we have met with in the past fifty years it does not rest there at all. The whole cry has been that intangible property has been assessed unfairly; and for that reason it has been hidden away, and has escaped taxation. I think that all intangible property cannot be hidden. It should be taxed *ad valorem*. There is no other just way to do it. When it comes to intangible property it has no intrinsic value whatever. A note or a bond written for one thousand dollars is mere paper, and is not worth a hundredth part of a cent. It is not that that you tax. It is the promise to pay, and that promise to pay is to pay interest which is also part of a note and a bond. It is clear we are seeking the way to do justice and equity in taxation of intangible property. For what purpose? Is it that you want to yoke up with that proposition the only tax on income from tangible property. You might as well tax the income from real estate; every bit. Now, then, the original purpose for which we started out was the purpose alone to meet the difficulty in regard to real estate. It was not to do away with the principle announced in the revenue provision of the present Constitution at all; it was to carry out the purpose and the object of that great provision, so that every man and corporation in Illinois should pay taxes in proportion to the value of his property. And that was not done. And why? Simply for the reason that I have before stated, the assessor would minimize and shrivel up the value of tangible property, while he would assess at its full value intangible property. What we want to do is to assess tangible property, personal and real, in the old way. And if this provision simply provided that tangible property, personal and real,

should be taxed by the assessor ad valorem, it would be the old doctrine about which there is no trouble, except, probably, that it was assessed too low; and that low assessment was brought about because intangibles were escaping taxation. After we have done that, then let us deal with the final proposition, with the income on intangible, and let us make it so effective, so easy that if the assessing power for the assessment on tangible property, is shriveled up, that the other can be shriveled up to the same amount. If the provision ought to be that the income from intangible property should be real and substantial, to formulate it, in my judgment, is as easy as sin. If the income on tangible personal property is yoked up with the income on intangible property, and it goes before the General Assembly in that form, those who are seeking to get a low income tax on intangible property will go to the farmer and the man with the stock will go with a club in his hands and say, "The Constitution permits us to put an income tax on your tangible personal property;" but you better be careful about what tax you place upon the intangible personal property. As I said at the outset, if the amendment of the gentleman from Hancock is adopted it will be easy thereafter to solve this whole legislative problem which we are confronted with.

CHAIRMAN WHITMAN. Are you ready to vote on the amendment?

Mr. HAMILL (Cook). I ask your indulgence for just a minute while I explain my view. The question that is presented by the amendment is whether the power to substitute a tax by income shall be confined to intangible or shall be extended to both tangible and intangible personal property. I sympathize with the argument expressed by the delegates from Hancock and McLean, as to the administrative difficulties that would be presented in an effort to raise a tax upon incomes derived from tangible property; and, I am frank to say, that I do not attempt to offer how it can be done. I question very much whether it is practical—whether it is a practical proposal. I recognize the validity of my own judgment; I recognize that there may be hereafter possibilities of doing that very thing which now seems so difficult. It might be possible that an ingenious General Assembly will find some kind of tangible property which may be made to bear its fair share of taxation, whether by having its income taxed, or else by attempting to levy upon it an ad valorem tax. I can see no danger in giving this power to the General Assembly. I believe we are debating almost an academic question; a question very much whether the General Assembly can draw up a practical means of taxation. However, I am quite willing to let the General Assembly draw it; I shall, therefore, vote against the amendment.

Mr. SUTHERLAND (Cook). I merely want to express my own views on this matter and make my own record clear. Again we have had dispersions cast upon the Illinois General Assembly, as to the danger of giving them substantial powers with reference to taxation. I want to say this, while, perhaps, not the most perfect legislative body in the world, I think the record of the Illinois General Assembly for decent legislation, for progressive legislation, for sane legislation, for the absence of insane legislation, will compare most favorably with the record of most any other legislative body in these United States. I shall add nothing in repetition of what I said yesterday about the necessity of depriving the legislative body of a considerable amount of power.

Mr. Chairman, some gentleman, I think, has spoken against giving the General Assembly power to substitute a tax on income for the tax upon some of the classes of tangible as well as intangible, for lack of information. Has anyone heard any complaint from Wisconsin of the evil consequences there; and yet, Mr. Chairman, it has been found in that state much more practical to tax incomes and to exempt almost all personal property, except such things as railroad personal property and utility personal property of a tangible character, and a few other classes. But we must remember household goods, merchandise, garden and farm machinery, and tools have been exempted from direct tax, because the income tax was imposed, and the amount of the necessary revenues that were before derived

from direct taxation of those objects, has been made up many times through the taxes derived from income and no complaint that I know of has been heard from Wisconsin has been such that injustice has been done; and yet we know that injustice is done on the tax of much personal tangible property. I do not know that the General Assembly would proceed at once with that power. I do not know, Mr. Chairman, if we are going to provide an income tax and income tax only as the means of meeting tax values and inequalities today. How are we going to do it, if we do not permit it through broad power, as I think we should do. Has the Convention of Nebraska done wrong to trust the Nebraska legislature to do it? Then, Mr. Chairman, I think, at least, we should not hamper the General Assembly in its power to enact as good an income tax law as experience of other states at this time, and of their own state in the other years, may indicate to be necessary. Therefore, I hope that the amendment offered by the delegate from Hancock will not prevail.

Mr. DUPUY (Cook). Mr. Chairman, I will endeavor as much as is possible to confine myself strictly to the proposed amendment; at the same time it is extremely difficult to talk only on this particular part of the general subject. I have only a few things to say. I am very much in favor of this amendment, as far as it goes. It does not go far enough. I expressed my position clearly yesterday, and it would only be a repetition if I went over the whole ground today. The present method of collecting taxes on intangible property has been a failure. It won't work. We were sent up here to substitute something better for it. This substitute presented by the majority of the committee so far as it relates to the first nine lines, does not effect any change whatever in our present system. It is an ad valorem system of taxation upon all classes of property levied according to the principle of uniformity. That is the provision of the Constitution of 1870. Beginning with section ten it allows an income tax in addition. I take it this is not meant to be a property tax in the proper sense of the word—nothing at least, levied on specific property. We have, beginning with line 19, this provision that in lieu of the property tax on personal property as it has originally read intangible property, and as it is now proposed that form of taxation may be imposed as a substitute for tax on personal property. I have started out with these propositions that seemed to me to be fundamental, and that we ought not to depart from, because there is no reason alleged or known why we should depart from them: First, all tangible property of every kind, personal and real, should bear its share of taxation according to an ad valorem method. Second, the difficulty was, that we could get no taxes imposed upon this enormous mass, amounting to fifty per cent it is said, of the taxable value of the property of the State of Illinois. It is hidden; it can not be discovered, and it escapes taxation to a very large extent. Now, my thought was and is, that we ought not to try and impose an ad valorem tax on that, because it has been a failure. If it could be done under this amendment, it could have been done under the Constitution we have had for the last fifty years. But it has been a failure, and a great injustice. The man who has this class of property and who discloses it and lists it, and has submitted it for taxation, results almost in confiscation. It took at least one-half of all the income. He found out to pay the taxes would be most unjust; and it put an absolute premium on concealment; it imposed a great penalty or revelation or disclosure of this class of property. That man is entitled to some relief. Under this plan proposed by the majority, you are going to continue that system exactly as before. Under the plan proposed by this substitute offered by the majority of the committee you are going to have the same thing right along in the future that you have had in the past. There is no important change in it in that regard. Until such time as the legislature may, under the further provision of this substitute step in and impose an income tax in lieu of tax on personal, tangible or intangible, as you may see fit, there will be no change. The citizens of the State of Illinois who have this class of property are going to be in the same situation

they have been before. They have got to go right along being liars and perjurers—as we have heard the terms used on this floor over and over again—until some time in the future when the legislature should undertake to give them relief by substituting this income tax. I am in favor of this amendment proposed by the gentleman who offers it. I want this confined to intangible property, and just as he said, tangible property should not escape taxation by the ad valorem method. It is here; it can be seen; it can be discovered; it can be listed; it can be subjected to taxation. There is no reason why it should not be; just as it always has been. We still want the old fashioned and time-honored method of determining what its proper proportion is. When you come to this intangible property you are dealing with an entirely different and extremely difficult subject. I believe that the adoption of this proposed amendment will be a start in the right direction. It will preclude the legislature from having power to exempt classes of tangible property from taxation. All that class of property, tangible, personal property, and all real estate, should be left the same as it was before. I only favor this method because I think it will be equitable and just, and I hope, successful as a method of imposing taxes upon that class of property that has heretofore escaped and by reason of which escape the rate has been put up so much on other classes of property that has borne the burden of taxation. I certainly hope that this amendment will prevail.

Mr. MILLER (Cook). I asked the gentleman who moved if he thinks there is any real danger that a legislature will ever exempt personal property from direct taxation where the results will be a substantial benefit, that is a substantial gain. Of course I can see household furniture the cost of assessing might approximate as much as the tax, but do you think the legislature would be at all likely to exempt any class of personal property where the taxation would yield substantial returns.

Mr. MACK (Hancock). My answer to that question would be the very experiment itself would necessarily produce a large amount of exemption, so that it would not be necessary that it should be done; if the legislature distinctly went out with wrong methods to exempt property, the very experiment would do that. It has been suggested by the gentleman who has spoken that it is absolutely experimental, nothing else, and you could not tell where it would bring up.

Mr. DAWES (Cook). There is a motion before the house.

Mr. SUTHERLAND (Cook). I will withdraw my motion until the gentleman is through, that is on the floor.

Mr. MILLER (Cook). I never like to take very much time but I am very much in favor of this amendment in that it seems to me the sense of the Convention that the alternative proposed in the motion shall be adopted. As I understand the entire clause, it is only an alternative plan whereby, it shall be effective as a threat to intangible property. If it came out and got on the tax books as provided in the first clause of this act it may then be enacted, and thereby this intangible property shall pay substantial tax; it is to be hoped that the effect of this threat as it is will probe the conscience of those who have been evading taxation and that it will not be necessary to work the second income tax provided by this proposal. If, however, it will be necessary to enact a clause, it seems to me that there should be no thought of exempting from the effects of the first clause on ad valorem property, any kind of personal property. Whatever the kind of personal property is, if it is tangible, if it is valuable, the value can be ascertained. It is as easy to fix the value of that property as it is of the value of the real estate and therefore it seems to me that every reason that applies to the taxation of real property should apply to the taxation of tangible personal property. As it is worded it seems to me to be a very thorough plan and method of reaching intangible property, and if you fail under this, to reach it by the direct ad valorem plan that has been followed heretofore, which has been enacted in the first section, you can under the second. I hope the amendment as offered will be adopted.

Mr. BARR (Will). I would like to ask the mover of the motion to close debate to give me a very few minutes simply owing to the fact that I am a member of the committee.

Mr. SUTHERLAND (Cook). I will yield the point.

Mr. BARR (Will). Mr. Chairman, I am going to endeavor to confine my remarks to the amendment, yet I am going to digress for just a moment. I feel that the committee and the Convention have made a mistake in defeating the original report by substituting the substitute report. I was one of the members of the committee coming from a country district who has been intensely of the opinion, and I am still intensely of that opinion, that intangible property should be permitted to be classified for taxing purposes. I am not going into details now as to why I have that opinion but I have it very emphatically. It appeared to be in the minds of the Committee of the Whole as well as the majority of the Revenue Committee that the opposition to the classification of intangible property has become so strong it has endangered the adoption of the Constitution, and perhaps the provision for the classification could not itself be passed by the Convention, so really it was quite desirable that the substitute should be offered. I believe, and it has been my view from the beginning, that the only part of property that it was necessary to classify was intangible property. I believe that the only part of property that is necessary to be removed from the rate imposed on property generally, is intangible property, and so I have come to the conclusion that my views are now met better by the amendment that has been offered than my views are met by the substitute report of the committee, so I shall vote for the amendment to the substitute report of the majority of the committee.

Mr. SUTHERLAND (Cook). I renew my motion and ask that a vote be taken.

CHAIRMAN WHITMAN. The motion is that debate be closed. It requires two-thirds vote of all the members present.

Mr. JOHNSON (Bureau). I desire to ask the gentleman who made that motion to grant me the privilege of saying simply a word or two by way of explanation of my vote. The reason I ask this is because of the fact that I am one of the majority of the committee.

CHAIRMAN WHITMAN. Does the gentleman grant the privilege?

Mr. SUTHERLAND (Cook). Let him talk.

CHAIRMAN WHITMAN. He is going to.

Mr. JOHNSON (Bureau). Gentlemen, the truth about it is that my mind has never been settled on the question here raised by this amendment. It is true that I consented that the article should contain that provision. I will say this, after listening to the delegates on this floor upon the question, I have been considerably more in favor of the proposal as offered by the majority of the committee than I was when I consented that it might be filed here. The delegate from McLean county, by my side, has given me an additional reason. I understood him to take issue with the chairman, with the honorable chairman of the Revenue Committee, when he said that horses and farming utensils of that kind earn them no income, and you are right on that, Senator Kerrick, in saying not only that sort of property but also the tools of trade and of art, earn a large income in the hands of the skilled mechanic or the hands of the plowman or the hands of the man who drives the team. It is exceedingly difficult, as the delegate from Cook county, Mr. Hamill, stated, to separate the income which came from the tools, from the income which came from the man who used the tools, but I am not in a legislative body,—the people in my district did not delegate me to the Legislative Assembly,—they sent me down here for the purpose of trying to make a Constitution for all of the people of Illinois, not for any particular class. If I were now in a General Assembly, and this question should be presented before that body to levy upon personal tangible property an income tax, I would pause and hesitate in subscribing to that proposal, but as was very well said and suggested, there may be a General Assembly in the future whose personnel will be of that ingenuity necessary

to devise a way by which that might be done so as to give splendid results. I don't think, as a member of the Constitutional Convention, I ought to deprive that General Assembly of that privilege. Suppose they try it out for a session of two years and give it a working chance, and if it was demonstrated by actual experience to be unworkable what doth hinder the succeeding General Assembly from changing that order or scheme of taxation? I have more confidence in the future General Assemblies of Illinois than some people in Illinois, and perhaps some of the hall of the legislature here, but I want to say to you men, as I now look you in the face; there is one fact that has grown out of the great world disturbance that stands out as a predominant fact not only at home but in the whole world; it is this that there is no power upon earth so great as the consecrated opinion, in democracies or any other form of Government. They are all beginning to realize that fact, and it follows that future General Assemblies will respond more readily to public sentiment on any question than they have done heretofore, and it is that reason that leads me to the conclusion that this limit to this Constitution should not contain restrictions on the General Assembly which we as delegates cannot see that they have to do with. We have to do with principles which are eternal and unescapable, principles of that kind may go into the Constitution, but things that change with every wind that blows, ought never to find lodgment in the writings of a Constitution. Who will be hurt by a trial of that kind? True it is as we learn from the Revenue Committee from six months of long, serious study that the great mercantile establishments of Illinois do not so much as file a schedule with the assessor. One eightieth of one per cent covers the entire household goods and these valuable diamonds that my brother, Senator Kerrick, speaks about, and a less per cent than that will cover the entire budget of farm tools and animals and machinery and personal property in Illinois. It is hardly worth the while of going after. It is the wisdom, my friends, of the other states in the Union that they are coming to the conclusion that these things that produce wealth should not be taxed. From coast to coast in the states of the Union that is the drift of public sentiment, that the things, the tools and things about which we are talking now should not be taxed. I am not clear in my own mind, but I have come to the conclusion, gentlemen, that as for myself in the regard, I shall not bind the General Assembly of Illinois on this question, it perhaps will never exercise the prerogative, but whether it does or not public sentiment will take care of that, therefore it is for that reason, I will vote against the amendment.

(Motion to close debate adopted.)

Mr. MACK (Hancock). I do not desire to take a minute more of the time of this house, but I now move that this committee proceed to take up the amendment which I sincerely believe should be adopted.

(Amendment adopted.)

Mr. GREEN (Champaign). I desire to offer a further amendment to this Section No. 1.

Amend Section 1 of Proposal No. 378 by striking out in lines 10, 11 and 12 the words "taxes may be levied also on incomes; if the income tax be graduated and progressive the highest rate shall not exceed six times the lowest rate;" and inserting in lieu thereof the words "The General Assembly may provide a uniform tax also on incomes."

I have just two or three very decided opinions on this subject of the revenue article and this amendment presents the most important one. When the majority committee report was presented, it contained two things which were consistent, namely, it provided for the classification of intangible property for the purpose of levying an income tax, and it provided for a graduation of that tax. It went further than that in providing for classification but it was consistent in the tax that it carried the element of classification consistently through the entire plan of taxation presented by Section 1. As I see it this report as it now stands is utterly inconsistent and therefore absolutely unfair. Originally when this Convention was

called, and the subject of the revenue article was conceded to be the most important business, I doubted very much the wisdom of classifying property for taxation. In fact at that time I held a decided opinion that it was dangerous. I have never changed my mind on it. I have heard much argument on the floor of this Convention that merited in my mind most reasonable consideration, in favor of the classification of property, more arguments than I believed existed, but it may be my weakness still it did not overcome the opinion I had that classification was wrong. If classification of property for taxation, for one purpose, is wrong, it ought to be wrong for another purpose. In other words no one doubts the absolute equity of the theory of taxation in the present Constitution. If it had been capable of fair and complete administration every one conceded that the principle was sound and we have only been driven to adopt the expedient of the income tax, admitted by all by reason of the fact that the old Constitution, the present Constitution, was incapable of administration so as to uncover intangible property, but it has never successfully argued that if all kinds of property could be reached for taxation and were honestly turned in, that a system of uniform tax is inequitable. But now we have this element of classification of property for ad valorem tax eliminated, and I believe rightly so, so if we care anything for the principles, if we want to be consistent, if we want to be guided by the same equity toward one class of property and the owners of one class of property as to another, we should be just as fair to the other kind of property and to the other owners of property. To adopt a graduated and progressive income tax and at the same time, refuse to adopt a theory of classification we say this, we say that we believe in uniformity of taxation against that class of property which may be reached by an ad valorem tax and we are opposed to a uniform scheme of taxation for that class of property which cannot be reached that way. All this amendment does is to change the theory of graduated income tax to the consistent principle of uniform income tax, and if the argument is sound that it is a correct and equitable principle of taxation that all property should pay a tax uniformly according to its value and in assessing ad valorem taxes it seems to me that it is absolutely controlling to the proper consciousness that the same principle ought to be applied to the income tax.

Now, so much for the equity of theory of that principle, but I have been very much entertained and enlightened and pleased by the very splendid arguments that have been advanced especially by the chairman of the Committee on Revenue and Finance, and that we want to think well about adopting a revenue system which will be used to the promotion to the business interests of the State and that will not be dangerous to these interests. It is admitted by all that the present system of graduation of income taxes enforced by the Federal Government is a bad thing for the best interests which it affects, and I believe that all business men will admit that we are now reaping the harvest which will ultimately come from a continued policy of penalizing system of taxation. There is just as much harm, and it is just as wrong in principle to allow a graduated tax of six to one as it is a graduated tax of fifty to one. It is only a difference in degree and if it is wrong on principle to allow the General Assembly to ever impose on the State a system of income taxes in line with those which now prevail with reference to the Federal tax, then on principle it is also wrong, in a lesser degree to graduate it at all and personally I don't think the income tax system is a real good American doctrine and I say again, I believe it has been conceded by all that the only excuse for moving to an income tax system in Illinois is to compel a form of property which was escaping taxation to come into the light and yield its fair share of the revenue. Therefore as a matter of expediency and of necessity I acceded to the doctrine of the income tax, but the reason it is wrong our principle is not applied when that tax is graduated. May I use one simple concrete illustration that will prove what I believe to be the fact that a graduated tax is a penalizing tax and has no basis in justice. Here are two men of

equal ability, of equal natural talent and in the same line of business; the one man is industrious and the other lazy; they may be professional men, both of them capable of earning the same amount annually, the one man by his industry earns ten thousand dollars a year—and let us remember that this income tax applies to salaries or incomes from the exercise of judgment in business affairs—the one man because he is industrious receives or earns ten thousand dollars a year; the other man with the same talent and with all the opportunities, because he is indolent earns only twenty-five hundred a year. A graduated income tax is nothing more or less than a penalty imposed by law on the exercise by the industrious man of the talents he possesses. And I do not believe that is an American doctrine and therefore realizing that the income tax is an expedient to reach the property and possibly does violence to the principle anyway, but is excusable because of the necessities of the case, it seems to me in harmony with the principle that taxes shall be levied in a uniform rate, ad valorem, and in harmony with the principle that there shall be no penalty imposed by way of income tax on the good citizen as against the poor one. And with all of these elements of equity involved it seems to me that when we produce a revenue from intangible property or from property by the exercise of judgment and the control of wise leadership and executive ability, produce an income which yields its tax to the State we have done as much as we dared do consciously to preserve the principles of uniformity. And remember in that as between the man whose income may be ten thousand dollars from a salary and the man whose income may be ten thousand dollars from invested capital, they are each to pay the same proportion for the maintenance and sustenance of the government, we have the same principle of uniformity applied. Then there is one other reason that seems to me controlling. There is one thing that has not been mentioned very much in these debates but to my mind is the most important thing for us to remember, when we think of the future of the State, there is but one thing for consideration and that is the necessity for a system of taxation which will produce stability, in values and stability in taxation. Stability in values is governed by the tax they pay and it seems to me one of supreme importance to the business industries of Illinois. Now every man in this convention, possessed of property, who looks into the future and who undertakes to provide for a distribution by his last will and testament of that estate with which the Lord has blessed him for the benefit of those whom he expects it to benefit with a graduated income tax system engrafted by constitutional law as a part of the tax system of the State, cannot successfully argue that he had prescribed that sense of security that would come about if he knew that he could as he looked into the future tell exactly what the property would do, but that property should yield and always should be burdened with the means to sustain the Government that will preserve the value for the purpose for which he leaves it. I think we ought to be consistent, and if we are going to have a uniform ad valorem tax we should have a uniform income tax.

Mr. DAWES (Cook). It is with some reluctance that I enter into the discussion of the floor but having spent as you know the greater part of the year in the study of the taxation I think it is a duty before me to explain the purpose of this proposal as I understand it, and I want to address myself particularly to the points which have been raised by the delegate from Champaign. It won't be necessary to consider the proposal in its entirety and I ask your indulgence therefore, for a few minutes. First if you will pardon me for doing it, I should like to outline the general plan of proposal to meet the objections which have been made on this floor, and which have been made to me personally by many delegates in this convention, to the effect that the proposal is essentially a hodgepodge of grants and limitations, and that it has been drafted without a proper knowledge of the method of imposing limitations in a Constitution. It was well known to the members of the Committee on Revenue that legislative powers were granted to the legislature, and if the matter had been

left there the legislature would have had the power over all matters of taxation. However, in the first paragraph of this proposal that power was limited by the requirement that the General Assembly should provide for the levy of taxes upon property by valuation, that every person or corporation shall pay a tax in proportion to the value of his, her, or its property. That was a restriction of the most binding sort. The legislature, held by that restriction, could do nothing except levy the property tax by valuation, ratably according to the value of the property. It was then deemed necessary that there should be some exceptions made to such a limitation, and those exceptions were (a) that the tax may also be levied on income, (b) if the income tax be levied it shall be a tax the maximum graduations of which shall not exceed six times the minimum; (c) that those incomes described in the proposal might by the legislature be exempted from taxation; (d) that in lieu of the property tax thereon the General Assembly might provide uniform tax on income derived from intangible property, in which case the rate of such income should be real and substantial, and there should be no exemptions except as provided in section 3 of this article; (e) that a tax may also be levied on privileges and franchises and occupations, uniform as to class.

That was the plan on which the proposal was constructed, and I submit it is a proper plan, and that it is framed in constitutional language. Now it constitutes a unity. It is a thing complete in itself. If one section of it is taken out and submitted to consideration, apart from all of the sections of it, we may fall into very serious error. The rule of taxation by value, the uniform valuation tax, has not succeeded in this country. I think the figures show it. The venerable and versatile delegate from McLean, as he said, put his knife on the sensitive nerve of the whole situation, when he said that certain classes of property value themselves, and that other classes of property were susceptible to arbitrary valuation. Originally, when all property was valued at its true value, there was little difficulty encountered in enforcing a uniform value tax. Whichever party it was began it I don't know, but when valuations upon real estate began to fall, then intangible property began to escape taxation, and the effect of the uniform taxation rule was that property of every kind was, by the application of that law itself, automatically classified. Intangibles were classified in such manner as to be almost exempt from taxation. Real estate was classified in such manner that town lots the value of which was estimated as being four billion dollars, or 20 per cent of the total value of property in the State, actually paid 40 per cent of the total taxation collected by value; and farms which represented seven billions or 35 per cent of the total value of tangible property in the State, paid 26 per cent of the taxes. The two together paid 66 per cent or 67 per cent of the total taxes that were collected in the State of Illinois. We see therefore that there was in effect this classification of intangibles from other forms of property, this classification of real estate, this classification of tangible personal property, and the whole system has collapsed. Not only in this country has it collapsed, but it has also collapsed in other countries. If I may read a paragraph from David A. Wells on the "Theory and Practice of Taxation," we will find that the experience has not been confined to his country alone.

"To complete this record of experience it is desirable to add that there is not a single economist or financier of note in the United States or Europe, who upholds the 'general property' tax as a desirable or essential feature of any fiscal feature, its characterization by M. Leroy-Beaulieu, the celebrated French economist, being that a 'cruder instrument of the collection of taxation' has rarely been devised.

"Again in every country on the globe where a direct tax on personal property in the hands of individuals has been laid, the system has exhibited the same features of badness. No experience in any country has suggested any practical improvements of it. It has never been improved; it has never grown better; it has always, under all circumstances, exhibited a

tendency to grow worse. It is a fact creditable to the superior intelligence of other lands that it no longer is found in any civilized country on the globe, the United States alone, excepted."

Professor E. A. R. Seligman, of Columbia University, who has written much on this subject, sums up the result of his investigations in the following language: 'It will be no exaggeration to say that the general property tax in the United States is a dismal failure.'

I shall not read more. None of the dictionaries recognize the word "intangible" as a noun. Its meaning in law and common usage is as elusive as its substance. I have searched through law dictionaries in vain, to find some meaning of the noun intangible. Every intangible derives its value from a tangible and generally they consist only of evidence of ownership in property, writing on paper, and without the writing there could be no intangible.

The very earliest existence that I know of, of intangibles, is to be found in the clay tablets of Mesopotamia. The property represented by them is destroyed long ago, and in and of themselves these tablets have more value now as curiosities than they ever had as clay. They were never property, they were simply evidence of ownership in property. I think that it was the realization of this distinction that has caused foreign countries to drop entirely from taxation this form of property.

Now, the first thought of every member of your committee on taxation was to keep a firm hold on this class of property and subject it to taxation, under the laws of the State and under the Constitution to be framed. I think there was no member of that committee who had any other purpose in mind than to collect the maximum amount of revenue to the State that could possibly be secured from this class of property. Other nations may have abandoned it, but it is not the desire of the people of this State to abandon the revenue derived from that class of property.

But I call your attention to the fact that if other nations have recognized that there is such a distinction between this property and other classes of property as to lead them to the conclusion, in forming their taxation laws, that this was not property at all, then when we undertake to tax this property we are basing a whole system of taxation on a certain inconsistency, which will bring other inconsistencies. Without going into a discussion in connection with classification, I will simply say this, that it was the opinion, as you know, of the Revenue and Taxation Committee that the method by which the maximum revenue could be derived from the intangibles was by taxing the income of those intangibles. And they have provided for the taxation of intangibles by their income. So far as I know no other State and no other government has ever undertaken this form of taxation as applied to property of this kind. The honorable delegate from Cook last night was speaking of the situation that springs up in England where they have an income tax, but in England this form of property is exempt from taxation, and the four per cent tax of which he spoke at that time, was a tax on the income and was not in any sense to be considered as a tax which by its imposition excluded any class of property from taxation by value.

Now, it has been the policy of this State for nearly one hundred years to tax this property by value uniformly with real estate and every other form of property, and it is not by any means our intention to let this class of property go, or to excuse it from providing its just and maximum proportion of the revenues of the State. When it was proposed to substitute a tax upon the income of this property for the tax by value, it was the conviction of the members of that committee that the tax substituted should be a substantial tax. Now the conditions that were provided were not provided with the idea that they would be of such a nature as to permit a heavy initial tax to be applied. A man with an income of but two thousand and fifty dollars a year would have to pay an income tax, but no legislature would find it politically possible, they would not have the heart to tax a person with such an income more than one per cent. Could a tax of one

per cent be considered as in any sense a tax which would justify the withdrawal of the intangible property of this State from any other form of tax? I don't know whether I violate any of the proprieties in stating that when this matter was discussed in the rooms of the committee there was no one who thought that the tax that was to be used as a substitute for the property tax ought to be less than eight per cent, and that would be a tax on only four mills on the principal. Is there any one who holds such property who thinks that he ought to be excused from any other tax on it by reason of paying less than four mills on his principal? But if we tax the income at one per cent it would pay about one-half of one mill. For example, let us assume, an individual who has one hundred thousand dollars of property, the income of which is five thousand dollars, a tax of one per cent would be fifty dollars. Does any one in this Convention want to exclude that one hundred thousand dollars of property from any other form of taxation because of receiving fifty dollars in taxes? If he does I cannot go with him. I have no desire to see this sort of tax substituted, or see the legislature free to substitute this sort of tax, unless they are free to substitute a tax that will be a source of revenue to the State and will establish equity as between holders of one class of property and holders of other classes of property in the State.

You speak of uniformity of the income tax. Remember when we speak of using this income tax by two methods, to tax the incomes in the State, the income that comes from salary and from personal earnings, and at the same time tax the incomes from property, the tax that is to be substituted for a property tax thereby comes a property tax, then if you insist so much on uniformity, upon which side will you base your uniformity? Will, it be uniformity on the rate of income tax, or uniformity in the taxation of property? If you insist on uniformity of income tax, say one per cent, on all taxation, won't you have destroyed any semblance whatever of uniformity in the results you get, when you use that income tax as a substitute for the property tax?

That is the idea I want particularly to get into the minds of the delegates of this Convention. I do not deny it is possible to find a way by which a uniform tax may be levied on incomes derived from effort, and at the same time a uniform tax to be used as a substitute for the tax upon property, but you cannot use the same uniform tax for both. It would be wholly absurd to put into this Constitution a requirement that such tax must be real and substantial, when at the same time you fix those conditions, which politically and practically require that the tax should be as low as one per cent. I hope that no man in this Convention has it in his mind that one per cent upon the income or two or three or five or six or seven per cent upon the income derived from intangible property will ever be used by the legislature of the State for a substitute of a property tax—

Mr. GREEN (Champaign). Is there anything in this which would prevent it, prevent them making it one per cent?

Mr. DAWES (Cook). I think there is everything in this to prevent; I think the very freedom given to the legislature, I think their sense of justice, I think their sense of responsibility to the people, I think their sense of obligation to secure revenues for the State would assuredly prevent it. I will say further to the honorable gentleman from Champaign I was willing when the committee sought for means by which they could write into the Constitution something to make this a real and substantial tax, something approximating the ad valorem, I was willing to write into it that tax should not be less than eight per cent, and it was felt by other members of the committee, it was not appropriate as constitutional language nor under the circumstances deemed necessary.

Mr. GREEN (Champaign). You do not understand that the amendment applies in any sense as an income tax substitution for an ad valorem tax?

Mr. DAWES (Cook). I understand that they are uniform, they would be uniform, both, to each other.

Mr. GREEN (Champaign). Oh, no.

Mr. DAWES (Cook). Then there must be some language to the effect that the tax laid on income derived from effort might be at a lower rate than a tax acquired from property. When you come to the question of levying one tax upon the income derived from effort, and another tax on income derived from property, you place a difficulty in showing the source of income.

Mr. HULL (Cook). Your proposal provides for a pyramid tax; in the first place it taxes the real estate, and a uniform tax upon incomes received from intangibles, those two taxes are practically the foundations of your structure, and then on top of that you provide for an income tax which will be an income tax. Is that right, or are you making and attempting to provide for both an income tax and a graduated tax?

Mr. DAWES (Cook). That is not exactly the way I would state it.

Mr. GREEN (Champaign). Isn't that what it really is?

Mr. HULL (Champaign). Alternately or directly, as the legislature may see fit.

Mr. DAWES (Cook). Or substitution.

Mr. GREEN (Champaign). Or substitution. You may have your foundation stone as a uniform tax on real estate.

Mr. DAWES (Cook). Uniform tax upon real estate, upon property.

Mr. GREEN (Champaign). And then on the income received on intangibles from his property.

Mr. DAWES (Cook). May I state it so that we may not misunderstand each other; we have first placed a valuation tax on all property, we have then an exception to that that the legislature may if it desires substitute a tax by income upon intangible property. Now, if they do not substitute that tax then that intangible property falls under the rule of uniformity of taxation by value, and the general limitations prevail.

Mr. HULL (Cook). They laid a foundation for your taxes and then they are permitted to super-impose on that graduated income tax upon all incomes.

Mr. DAWES (Cook). Subject to deductions.

Mr. HULL (Cook). For the purpose of understanding these issues I would like to have Mr. Green's amendment read over, that refers only to the super-imposed income tax.

Mr. GREEN (Champaign). And that only.

Mr. DAWES (Cook). If you require a uniform tax and a uniform tax is used in substitution, where does the legislature get authority?

Mr. HULL (Cook). I am inclined to be with you but I merely want to understand the issue.

Mr. DAWES (Cook). I want to find out myself.

Mr. MILLER (Cook). Suppose you have under this system a property tax on real estate and tangible personal property and a substitute income tax on intangibles, then can you also have an income tax on salaries, on the profits of a coal operator, on the profits of a Board of Trade operator, and on all other incomes.

Mr. DAWES (Cook). Subject of course to this paragraph. Taxes levied by valuation on property in this State and paid shall be deducted from the income derived therefrom by the person or corporation paying such property tax.

Mr. MILLER (Cook). In other words your tax on their incomes, as I have mentioned it, would come under this provision which is now graduated, and which according to this draft which Mr. Green has moved to make uniform.

Mr. DAWES (Cook). Correct.

Mr. MILLER (Cook). Then you would have, as I think Mr. Hull outlined, first as a basis a property tax on real estate and tangible personal property and also we will say for example an income tax in lieu of the tax on intangible, and then on top of both of those an income tax.

Mr. DAWES (Cook). Yes.

Mr. MILLER (Cook). Then if that is so your right to tax intangibles at a rate, any rate, would not at all be dependent on the rate at which you tax salaries or income.

Mr. DAWES (Cook). Well, the gentleman is a much better judge of that than I am.

Mr. MILLER (Cook). I am just speaking to the amendment.

Mr. DAWES (Cook). As I read this paragraph, I find these words, "the General Assembly may provide for a uniform tax also on incomes," and following that is the exemption, in lieu of any property tax thereon the General Assembly may provide a uniform tax on incomes.

Mr. MILLER (Cook). Yes.

Mr. DAWES (Cook). Now, I am of the opinion that those words would be construed by the courts of the State as requiring the legislature to levy a uniform tax on both these classes of property, the same tax.

Mr. MILLER (Cook). No, not on incomes not derived from intangibles, that need not be uniform under any circumstances.

Mr. DUPUY (Cook). It must, under Mr. Green's proposal.

Mr. MILLER (Cook). He proposed it, yes.

Mr. GREEN (Champaign). That is already in the proposal, that the tax for intangibles must be uniform.

Mr. MILLER (Cook). I say where is the provision here requiring the uniform tax on incomes not derived from intangibles?

Mr. GREEN (Champaign). That is my amendment.

Mr. MILLER (Cook). Exactly, that is what I meant to say, according to this plan even if you amended as Mr. Green proposes you can have one rate of taxation on earned income and another rate entirely upon the income from intangibles, that is right isn't it?

Mr. DAWES (Cook). I will leave that to the judgment of the assembly here.

Mr. MILLER (Cook). I mean was that the intention of the committee?

Mr. DAVIS (Cook). Is it the intention of Mr. Green by the amendment raised?

Mr. MILLER (Cook). Certainly it is not.

Mr. GREEN (Champaign). The intention is in no way to make this amendment be uniform, to apply to income on intangibles, that is a separate matter. That is a different tax, it is a super-imposed tax.

Mr. DAWES (Cook). I misunderstood the gentleman. I understood him to say that all taxes on all incomes should be uniform.

Mr. MILLER (Cook). No, that is the super-imposed tax that his amendment applies to.

Mr. DAVIS (Cook). It might be, as Mr. DeYoung tells me, better to treat first the direct tax, then the subsequent tax and then the substitution tax.

Mr. GREEN (Champaign). I followed the order in which it was put in the proposal.

Mr. DAWES (Cook). I followed the general remarks that taxes should be uniform as to incomes derived from trade and effort—

Mr. GREEN (Champaign). And intangibles.

Mr. DAWES (Cook). A uniform tax.

Mr. GREEN (Champaign). Not at all.

Mr. DAWES (Cook). To be used for substitution.

Mr. GREEN (Champaign). Not at all, if you want—and perhaps it would make it more plain although I don't think it is necessary, to say that the General Assembly may also provide a tax for incomes different than as applied by the tax hereinafter provided—I think that is already there.

Mr. DAWES (Cook). I think it should be covered.

Mr. DAVIS (Cook). Suppose the amendment proposed by you is adopted, and comes into the section, would it be possible for the legislature to pass a law the effect of which would be that intangible property shall be taxed upon the basis of eight per cent, produced by that intangible property, and that the super-imposed income tax, which would also include income from earnings, be two per cent in addition?

Mr. GREEN (Champaign). Absolutely.

Mr. COOLLEY (Vermilion). Two per cent of what?

Mr. GREEN (Champaign). Two per cent of the income from other sources, it would not affect at all the substitute income on intangibles.

CHAIRMAN WHITMAN (Boone). Are you ready for the question?

Mr. GREEN (Champaign). May I make an explanation which I think will answer the question you asked before? In the proposal the substitute tax is only in lieu of the property tax, it is not in lieu of an income tax. Now a man may be under this proposal taxed upon intangibles eight per cent of the income, that is in lieu of property tax, he may have left than a large surplus of income after he has paid that tax, whether that be deducted or not is not clear but that income is added to the income from the salary the income from the tangible property, and upon that now this committee proposes you may levy in addition to these others a graduated income tax. I am willing that they levy an income tax, but my proposal is that it should be uniform.

Mr. DIETZ (Rock Island). Isn't it also true that under the proposal as read there would not be any credit given for the income tax in lieu of the property tax, whereas if it was a valuation tax you would get credit on your income.

Mr. GREEN (Champaign). That is it.

Mr. DIETZ (Rock Island). And that would create another inequality.

Mr. GREEN (Champaign). Absolutely penalizes a man whose income is from salary.

Mr. MILLER (Cook). It has seemed to me the principle of a uniform income tax is by all means preferable. It has also seemed to me that the Federal government has worked and over-worked the surtax, and that it must continue to work that surtax, not as hard as it has been worked, but still to the limit for many, many years to come. When I say that the Federal government has overworked the income tax I refer to the fact that many men of large incomes are putting their property in tax free securities, and inevitably before long we have got to see the effect of that. For instance, municipalities will have so easy a sale for their securities that they will indulge in extravagances, and industrial concerns that are producing things and furnishing the necessities of life, and furnishing work for thousands of men will not be able to get the money to operate. Now, as I understand the situation at the present time that surtax has been over-worked and is producing that result. The Federal government absolutely needs for many, many years to come, the revenue, to take care of the burden which has been imposed on it, and it needs the right to levy surtaxes to the last limit, if they can be levied without destruction of business, and it does seem to me in addition to the principle involved, which the gentleman has mentioned, that as a practical matter we ought not to indulge in surtaxes in the State of Illinois. We ought to if we can, leave that source of revenue to the Federal government that so badly needs it. Now, the only argument against that conclusion, that we have a uniform income tax, in this State, the one argument against it that has appealed to me is one which has been made to me in talking with various members of the Revenue Committee, and that was that when you place the limit upon the man of small income, he ought to bear it, but nevertheless that rate was not as much as the one on intangibles ought to bear and can well afford to bear, nor was it as much as the necessary rate on intangibles in order to produce the necessary amount of revenue, and that was a pretty hard argument to get around. But under this argument as it is now drawn, if the pending amendment should be adopted, we would not be confronted with that situation, and it seems to me that the only strong argument against the uniform tax would fail. We could go right on and levy the income on say two per cent of all incomes derived from all sources except from intangibles, and that would not be a burden on any man. A man for instance who has an income, a married man whose income was just under two thousand dollars, the two per cent on that, exempting him one thousand dollars would

be twenty dollars, and if he got over two thousand dollars it would be forty dollars, and that would not be excessive. A sufficient revenue could be raised, because we would still be at liberty to impose an eight per cent tax, if you please, upon the revenue derived from intangibles, without any ex-cession whatsoever. Now those reasons and one other, I want to raise, and that other one, it seems to me is one of the most important ones; suppose we retain this income tax and gradations from one per cent to six, it is true the twelve per cent might not be destructive to a man with a larger income, it would however in addition to the Federal income tax be very burdensome. But there is a much stronger point, it is vitally necessary it seems to me that every man should pay some tax and help in some degree to support the government, and it is necessary it seems to me that when that man goes to the polls he should realize that he is going to vote on a proposition as to imposing more debts, as to increasing the debt limit, and that he would go there with more sense of responsibility under those conditions. Now, if we have a graded tax from one to six, a great number of the owners of small incomes, will have a one per cent tax on their incomes, anyhow, and it cannot be raised materially because that rate is a rate that is already started at the maximum rate for a man of that income. They know that they will not be raised and therefore it is a matter of comparative indifference to what extent the debt limit is increased or general taxes are increased, but if we have a rate which is uniform then every man that goes to the polls will realize his responsibility when he votes upon the question of imposing greater taxes and increasing the debt limit or returning to office an extravagant administration, and it seems to me, to my mind, that is one of the strongest reasons for a uniform income tax.

Mr. DUNLAP (Champaign). I have been very much interested in the discussion of this question of incomes. I have been interested in reading the substitute report of the committee. The object of course in imposing an income tax I presume is for the purpose of raising revenue. If this motion were to prevail I doubt very much if the incomes derived from money, that is it may be profit or may be property, would amount to anything at all, because you have a clause in your section which says that the tax levied by valuation upon property in this State and paid shall be deducted from the tax on income derived by the person or corporation paying such tax. If a man were to have ten thousand dollars invested in property and there was a tax levied on that of two per cent, he would pay two hundred dollars in taxes, but if on that ten thousand dollar investment he were to make six per cent on his investment, with a rate of two per cent on his profit, he would be taxed about twelve per cent, so that the deduction of two hundred dollars from twelve dollars would not leave any great surplus in the treasury.

Mr. GREEN (Champaign). If he deducted his property tax he would not pay anything at all, would he? He would pay it all in property tax. That does not reach him at all.

Mr. DUNLAP (Champaign). He would pay it in property tax.

Mr. GREEN (Champaign). So it does not affect that man at all.

Mr. DUNLAP (Champaign). If we are to have an income tax that is based upon a revenue or rate that would raise something from a man who is earning a salary of one thousand dollars or two thousand dollars, if he was able to pay it would not amount to anything, less than nothing, when you deduct his property tax from it, providing you are going to make the man who has an income of ten thousand dollars or twenty thousand dollars, or one hundred thousand dollars, pay at the same rate that the laboring man is paying, because that man has property commensurate somewhat with his income, and if you are going to have the same rate levied upon that, that you have levied upon the income of one thousand dollars, it does not appear to me you are going to get anything in the way of revenue from the income taxes.

Mr. GREEN (Champaign). Wouldn't that same argument apply in every classification of property for taxation?

Mr. DUNLAP (Champaign). I don't get your idea.

Mr. GREEN (Champaign). If you are against classifying property for taxation it is on the theory that the man with the small property should pay in proportion as the man with much property.

Mr. DUNLAP (Champaign). That has a uniform rate of taxation on property of that character.

Mr. GREEN (Champaign). Yes, but shouldn't the same rule apply to a man with a small income? He should pay the same as a man with a large income, on the same principle.

Mr. DUNLAP (Champaign). I take it taxes are levied in this way not on property exactly but upon incomes, upon ability to pay. The property is supposed to pay according to its value.

Mr. GREEN (Champaign). If that is true, if a man had much property, and abundant ability to pay, wouldn't the same argument require classification of his property for that reason, so the man with much should pay more in proportion than the man with little?

Mr. DUNLAP (Champaign). I don't think necessarily so. It does not follow that he would have a larger income in proportion to the property than if he had a less amount of property. Now the General Assembly—if we are going to put something here in a Constitution it ought to be something that can be worked out logically, and to some advantage by the General Assembly, and if we are putting something here which is chimerical and has no substance, then we ought to be very careful in forming this section, that our language does not defeat the thing we seek to accomplish. My idea is if you have an income tax it ought to be a divisional tax; in other words that the income tax should stand for a part of the taxes that are to be raised, but you propose in another clause if a man pays taxes on the income on property that he may have the right to deduct that amount paid from his income tax. You are presuming that the man is paying a double tax, when he pays an income tax in addition to his property tax, and I do not believe that that theory will hold good for the reason that you have a certain amount of tax to raise and a certain amount of money derived from incomes, the balance that shall be raised will be taken from the proceeds of taxes levied on property, so that one is not an additional tax to the other but you are presuming here in your framework of this section that it is. Now if we are going to retain that clause in the section, permitting deductions, why not leave the matter go so that it is possible for the legislature to enact an income law that will mean some revenues to the government, and if we are to do that we must have a graduated income tax. Now I am not particular as to the amount of that, whether it shall be six to one or not. I would be perfectly willing that it should be three to one, as far as I am concerned, make that limit three to one, and then certainly there would be no hardship upon the man who had we will say—suppose that graduation was made to cover the salaries of men who need them for living expenses, suppose the rate on incomes or salaries of five thousand dollars for the purpose of this argument, we will say we will impose one per cent; and if we say from five thousand to fifty thousand that will be two per cent, and from fifty thousand up that it will be three per cent. Now that is not out of proportion, to the ability to pay those who are deriving that sort of an income from their business, and I submit that the moment that we have a straight tax rate on incomes, a rate that applies to all incomes, large or small, as Mr. Miller has suggested here, you will meet with that very proposition, that to keep the taxes down on the large incomes, and thus will be forced by the opinion of those of lesser incomes, where they are more needed for living expenses to a low rate—in other words you are tying to that proposition of imposition of taxes that which will prevent the State from deriving a tax from incomes to which it is justly entitled. I take it that the man who has a large income, being capable of paying more taxes, he derives, it seems to me, greater protection from the State than does the man who simply earns his living by the sweat of his brow, and should pay

more, a higher rate. So I believe it would be a mistake for us to amend this section on the report of the committee and I am in favor of sustaining that part of the report of the committee, having a graduated income tax, and personally I would be very glad to vote for a limitation of not to exceed three to one as far as I am personally concerned. I haven't any desire at all to impose any hardship on the man of large means, but I do believe he ought to give and ought to contribute more to the general government than the man living on a small salary. You are proposing to exempt from the income tax the amount of five hundred dollars, or one thousand dollars, depending on whether or not he is a single man or a married man. At the same time we know that it is a difficult matter for a man to live on less than fifteen hundred or two thousand dollars a year, and he cannot live very luxuriantly on that. When we impose a tax on his income we are taking from him and his family the actual necessities of his living, and actually imposing upon him a real hardship. I think, frankly, the limitation ought to be larger than is provided for here in this proposal. The exemption ought to be larger, so as to reach the point where men are capable of paying the income tax without it being a hardship on them personally and their families. Now, I think if we look at this thing in a broad way and in a practical way we will see if we do not have a graduation, a graded income tax, that the income tax feature of our proposed section in the Constitution will be an absolute failure, and I submit that if we are to have an income tax that we ought to have a graduated income tax.

Mr. MILLER (Cook). Let us get one matter straight, so we will have it understood if we can. You said that if taxes from property, ad valorem taxes, were deducted, there would not be anything to this income tax, if it were only one or two per cent. Suppose you had a tax of one or two per cent on all incomes and there was a deduction of taxes on real property, and tangible personal property, that would not reduce taxes, would it, on the real property, the tangible and personal property?

Mr. DUNLAP (Champaign). No.

Mr. MILLER (Champaign). Therefore you do not get any reduced income from that source.

Mr. DUNLAP (Champaign). I say you reduce the proposed income from the income tax.

Mr. MILLER (Cook). You would get two per cent from all of the incomes from lawyers and doctors, coal operators and merchants, and anybody that made an income from work or his brain, and there would be no reduction from that, isn't that right?

Mr. DUNLAP (Champaign). That is true.

Mr. MILLER (Cook). You say it wouldn't amount to anything?

Mr. DUNLAP (Champaign). No, I did not, but you have a tax derived from property any way, and then you made a provision here for the subtraction or reduction of the tax paid on the property from the income derived from it. There would be probably nothing of the income tax left.

Mr. MILLER (Cook). There would not be anything of the income tax on that property but that is merely a means of reaching the income from every other source except the income from intangibles, that is what that amounts to.

Mr. SUTHERLAND (Cook). It seems to me one point can be cleared up so that we can tell whether we want the tax graduated or not. The point has been raised under the article as it now stands, the tax which is in lieu; or which may be in lieu, or a substitute for the tax on intangible property shall be taxed at a uniform rate and also taxed for at the graduated rate provided for in the preceding paragraph. I do not think it is necessary under the present language—if it is necessary, I think it will be easy to adopt language that will meet it. And I don't think it follows—if it does follow then language can be adopted which make an offset possible, without doing away with the graduated tax. But under the present language I think that it is entirely possible that the General Assembly could provide that in applying the graduated rates to any income they should

not apply to that part of the net income derived from intangible property taxed under the substitute income tax provision of paragraph three of this section. The General Assembly is clearly given the authority to say what are not and what are those incomes, because the language on exemption from income tax reads "not exceeding three per cent on five hundred dollars," the person not a head of a family whose total income is less than one thousand dollars, and so forth, inferring that it is to be paid from the net as designated as distinctive from the gross—

Mr. GREEN (Champaign). If you did that, and that was put on intangibles, wouldn't it further be penalizing especially the salaried man, the man whose income was from business, and make him pay on a scale and an assessment entirely at variance with all the other taxes.

Mr. SUTHERLAND (Cook). I don't think that is so, I think we can see it better if we take it in specific figures. We will suppose a rate of eight per cent has been levied on the income derived from intangibles; suppose a man is a wage earner or a salaried man getting an income of five thousand dollars a year; we will suppose then he has five hundred dollars out of income from intangibles. Under my understanding of what the General Assembly might provide for, on the five hundred dollars he would pay a tax of eight per cent, I think that would be higher than would be levied, but it might be so, and that would be forty dollars income on the income of five hundred dollars. On the five thousand dollars, if you had a uniform tax, it would be about fifty dollars at one per cent. I do not assume the rate would be over one per cent, with our low exemptions, I don't see how it could be. He would be then paying a total tax of ninety dollars. I do not see why he is any more at a disadvantage with his neighbor at all, or at any disadvantage with his neighbor who has no gains or property and is simply paying on an income of five thousand dollars, the fifty dollars. The man has no income from intangibles and therefore why should he be paying for it? I figured that rate of tax on intangibles, probably high, but did so purposely, but I see no injustice in that situation whatsoever. If you are beginning your tax on a five thousand dollar rate on income, a five thousand dollar man might pay a rate of three per cent, that again would be slight, with your low exemptions—it would be one hundred and fifty dollars, and I do not think it is penalizing a man who is working on a salary or wage; all of these men are working on the same basis, and if they have amassed property and are deriving an income from that property, it is an asset and they should be paying some tax on that income. It has been contended here that they should be paying a very much higher tax than that, that they should be listed, that the tangible property in that case produces an income of five hundred dollars, at five per cent should be listed at ten thousand dollars, that should be paying two hundred dollars tax instead of fifty per cent. That is presumed to be just, equitable, fair and right, but I don't think so. But some of the gentlemen who are now favoring a flat ungraduated income tax do think so. Their idea of justice, equitable and fairness I confess, don't coincide with mine. I don't think you are going to get revenue enough to make your income tax worth while if you provide for a flat rate, in the case where you are limiting your exemptions to so low an amount, because I disagree heartily with the gentleman from Cook who thinks a forty dollar tax is an inconsequential tax to a man with a family who is getting only two thousand dollars.

Mr. DUPUY (Cook). Will you kindly figure and tell us how much you think that would be?

Mr. SUTHERLAND (Cook). It would be a little less than four dollars a month.

Mr. DUPUY (Cook). And I have figured it out at eleven cents a day, the price of one cigar, it is pretty hard to think that a man would complain about contributing that much to support the government.

Mr. SUTHERLAND (Cook). I don't say, Mr. Chairman, that that is an excessive tax, but I say it is a substantial tax, and a man that pays that much knows that he has spent it, and he is a man that cannot pay

much higher. You are not permitting a horizontal reduction of the exemption but the exemption clause says the maximum amount, and after that a man gets above the exemption class. I think, Mr. Chairman, it would be a mistake to cut out the graduation feature.

Mr. MILLER (Cook). You have said you did not think under this it would be added to the graduated.

Mr. SUTHERLAND (Cook). I think it could be added, but I think the General Assembly has ample power to distinguish.

Mr. MILLER (Cook). This says "in lieu of any property tax thereon," it does not say "in lieu of any income tax thereon." Is it capable of the construction?

Mr. SUTHERLAND (Cook). Under the preceding section in here I think it is. I know they are working on something which will make it clearly possible. I think it is possible now, because by inference the General Assembly has the power to say what is income and what is not income, and under the tax which may be graduated or progressive, which is provided for in the second paragraph, if they do they can say any income subject to that tax shall not include the income tax by uniform rate in lieu of the property tax as provided in the third paragraph.

Mr. MILLER (Cook). I won't argue with you, that it ought not to be that way, but you give your opinion by which you conclude that if this were a flat tax, inasmuch as there is no limit on the rate which can be placed on intangibles, that if the flat tax were on the incomes you could not raise sufficient revenue.

Mr. SUTHERLAND (Cook). Yes, I haven't the data to present in as good form as I had it last night because I had not considered the separation of the classes of income that would be derived from intangibles—and if derived from other sources, in fact it might be difficult to assume that, for example, perhaps half of the income returned by individuals from Illinois in 1917—I am not including corporate returns, which amounted to one billion one hundred and nineteen million dollars—would be earnings of various sources, through personal endeavor. Now, a tax of one per cent, a flat tax of one per cent on that would yield about eleven million dollars only. I have no way of estimating what the tax on income from intangibles alone would yield, but it does not indicate to me that you are going to get a very substantial amount of income from the revenue derived from personal endeavor unless you have some degree of graduation, and as you practically limit your rate, low rate, by the low limitation you place upon the exemptions. I do not think the State of Illinois will be any more successful in getting a return of income than the United States Government has been, and it is notorious that the most deficient government we have in this country is the Federal government, and not the local governments.

Mr. MILLER (Cook). If the tax were a three per cent tax on all incomes, would these exemptions produce sufficient?

Mr. SUTHERLAND (Cook). Would produce as much as could be produced by graduation from one to six, but I want to add there, if you will permit me, that if you put a flat rate of three per cent on it makes the man who is getting a cent more than two thousand dollars a year pay sixty dollars a year and I think that is a pretty stiff tax on that income.

Mr. MILLER (Cook). I am not coming to that at all. If it was a flat rate of three per cent, would you raise a sufficient revenue, such as you would get from a graduation of one to six, and you assume one-half of that income is from intangibles, and half earnings, and you would have eight per cent intangibles, and one per cent on the other, and you would have altogether four and one-half per cent, wouldn't you?

Mr. SUTHERLAND (Cook). I don't estimate that half of the income returned to the Federal government was from earnings on intangibles. It is from all the things, tangible and intangible, including real property and it was not susceptible to the reductions that are required in this article. If I had to make an estimate—it is only an estimate—I would judge that those earnings were perhaps ten per cent of one-half of the total returns by

individuals. I might be high at that, but that is only a guess, that is all any one can do, just simply guess. I simply call your attention to the fact it was derived from all sources and you made it impossible this afternoon to get anything from intangible property and tax it on a basis of income, and the deduction clause in this section makes it impossible practically to include and properly so, for State purposes, it makes it impossible to include in these taxes income derived from real property except in the very rare case where the ad valorem is less than the income.

Mr. JARMAN (Schuyler). Has any state in the United States or any government in the world ever imposed an income tax that does not provide for a graduation tax?

Mr. SUTHERLAND (Cook). The State of Massachusetts has a flat rate on income tax which has been in operation I believe since 1917. It does however provide for a differentiation in rates between the income derived from property and the income otherwise derived. Except as it is helping to equalize the burdens that were formerly imposed on various classes of property which could not properly be taxed by valuation, it is not operating with signal success, in that degree. It is working pretty well and producing more revenue than they received from those sources, but outside of that I don't think it is successful.

Mr. JARMAN (Schuyler). Isn't the State of Massachusetts trying to change that?

Mr. SUTHERLAND (Cook). There is some movement on foot I think.

Mr. JARMAN (Schuyler). Is there any other State or any other country which does not impose a graduation feature where they have an income tax?

Mr. SUTHERLAND (Cook). I know of no other State where anything like that is done.

Mr. DUNLAP (Champaign). I would like to know if they deduct property taxes upon income taxes in Massachusetts.

Mr. SUTHERLAND (Cook). I believe not.

Mr. LINDLY (Bond). I move that the committee rise and report progress.

(Adopted.)

President Woodward in the chair.

Mr. WHITMAN (Boone). The Committee of the Whole having under consideration the Revenue Article desires to report progress and asks leave to sit again.

(Adopted.)

Mr. MILLER (Cook). I move we adjourn until nine o'clock tomorrow morning.

(Adjournment until nine o'clock Friday morning.)

FRIDAY, NOVEMBER 12, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Wednesday, November 10, has been placed on the desks of the delegates and is now subject to correction. There being no corrections proposed the Journal of November 10 will stand approved.

There being no general orders of the day, the Convention will resolve itself into the Committee of the Whole for the purpose of further consideration of the report of the Committee on Revenue, Taxation and Finance. The Chair designated Mr. Whitman to act as chairman of the Committee as a Whole.

The Convention resolved itself into the Committee as a Whole for the consideration of the report of the Committee on Revenue, Taxation, and Finance. Mr. Whitman (Boone) presiding as chairman of the Committee of the Whole.

CHAIRMAN WHITMAN. The Committee of the Whole will be in order. The question under consideration is the amendment offered by delegate Green of Champaign. If there is no more debate on the question—

Mr. GREEN (Champaign). If there is no more debate on this question I desire to close it. It is manifest in looking over the hall that whatever action may be taken will not reflect the opinion of the majority of the Convention. So that, I assume, in the event this same subject matter will probably be before this Convention on second reading of this article no matter what action may be taken by this committee. Now, gentlemen of the committee, when I presented this amendment and opened the debate, I tried to stay away from any personal application of the effect of this article and this portion of this article, because it seemed to me that if it could not be applied upon principle alone we were indeed narrow in our conception and the arguments which would influence us to take final action. I tried, therefore, to confine my remarks wholly to the question of principle, believing that this Convention was made up of men to whom principle meant more than any selfish interest would. By that I do not mean the selfish interest of the individual delegate who may vote, but the selfish interest of any particular class or any particular business. It has been manifest as this has been considered it has become a question of taking a pencil and paper and figuring out how it would effect this or that particular kind of income, and there has been absolutely no attempt to meet the proposition in the light of whether it is inconsistent with the result of this section, or that it is impossible of defense on principle. There has been absolutely no argument advanced, save this: (That was by my distinguished colleague from Champaign) that it was not right to the poor man, and that he ought not to pay as much tax in proportion as the rich man; and that is the only attempt that has been made to answer the argument that this is wrong in principle. I take issue directly with that proposition, because, I say, that on principle the poor man ought to pay as much tax in proportion to his income as the rich man; and that on principle, if the rule of uniformity should prevail, he should pay tax on an ad valorem basis on the amount of property he possesses, under the same rate, uniformly with the man of the large property. The same rule ought to apply to the income of these people. These arguments offered have all rested upon how this was going to effect somebody. You can frame a set of figures and frame a condition that will

prove it either way. It has therefore forced me to form some conditions to show that this idea, to show that those who may be interested in the various industries in Illinois—farming, manufacturing, the mercantile business, the salaried men—to show how this could be exercised unfairly, hopelessly unfairly, and probably would be and would simply result in a race between these various interests, each trying to fasten the burden on the other. I call your attention to the last line of this article, line 29, where we recite, that the General Assembly may impose taxes upon other objects and subjects of taxation, may provide for the levying of taxes in a manner as may be consistent with the principle of taxation fixed in this Constitution. I challenge your reflective examination of this article, if you leave its classification of income tax in it after having prohibited classification of ad valorem tax, to tell anybody what the principles of taxation are. You are simply providing a serious means of raising revenue, and the only argument that can be advanced in support of a graduated income tax with all others on a uniform basis is that we need the money. If that argument is sound, let us give the legislature power to get a gun and go hunting for it. If you mean what you say—if the committee means what it says—if we are giving the legislature power to assess taxes in conformity with the principles of taxation laid down, then, for Heaven's sake, let us lay down such principles of taxation. But, now, in answer to these suggestions that have been made about how it would work out, will you pardon me for degenerating into the same line of argument to show you how it can work out to the everlasting detriment of the other class of income, which, perhaps, you are interested in. Let us remember this: The way this article reads as reported by the committee, taxes may be levied also on incomes—whom by? Taxes by whom? There is a blanket authority for the law to provide for the levying of income tax by cities, and by school districts.

Mr. SUTHERLAND (Cook). Did the gentleman read section 2?

Mr. GREEN (Champaign). I read section 2. But I am not considering it in connection with this.

Mr. SUTHERLAND (Cook). It is to be considered in that connection.

Mr. GREEN (Champaign). In my judgment, gentlemen of the committee, that is not true, for the reason that section 2 has not been offered, and there is in this Convention the representative of the great portion of the population that believes that the rule of taxation, as laid down for the State, ought not necessarily to be the same rule as laid down for other subdivisions. We have no assurance as to what action may be taken with reference to section 2. If it be necessary to presume that this Convention will prohibit the levying of taxes on a graduated basis, or on income tax, or on any of these things of the municipalities, and preserve to the State this particular kind of tax, it must be done only upon the theory that it is wrong, and that the State only is going to exercise this wrong. If it is right for the State to do it, it ought to be right for the city to do it, because it is a principle of taxation.

Mr. SUTHERLAND (Cook). Has he considered the second section of the present proposal? The second sentence, I should say, of the present proposed section one, "that taxes shall be levied and collected under general law?"

Mr. GREEN (Champaign). Let us see what there is under "general law." Is there anything to confine the legislature to a general law authorizing a city to levy income taxes? Does that sentence preclude the power to pass a general law giving the city that authority? It would be a general law of course. Does that answer your question?

Mr. SUTHERLAND (Cook). In connection with section 2 at certain times the General Assembly could—

Mr. GREEN (Champaign). I yield to the gentleman to explain now wherein he is able to assure this committee that because section 2 is in this article, it will prevent this thing that I am discussing.

Mr. SUTHERLAND (Cook). Mr. Chairman, section 2 reads: "The income tax herein authorized shall be levied and collected by general law,"

and in view of that language in section 1 and section 2, I fail to see how it would be possible for any General Assembly to enact a statute giving to a city, which is certainly no State authority, the right to levy and collect an income tax.

Mr. GREEN (Champaign). Gentlemen of the committee, you who were so anxious to prevent this, I would like to say that argument raised long before this in this connection, should now appeal to those of you who were fearful of classification, and who accepted this modified section 1 as reported by the committee which provides for a substitute on incomes, which, if section 2 is to be established, and let us presume that it is, on all these taxes, can be levied by a State authority. If you understand it only to give the State authority to levy State taxes upon intangible incomes, and that you are to allow the State, in lieu of all property tax, to levy an income tax on intangibles and exempt it from all other taxes—do you understand it that way when you accept the substitute tax on intangibles? Section 2 will never be adopted in the form it is submitted with that construction remaining.

Mr. GALE (Knox). I would like to say a word if the delegate from Champaign will permit me, on that point.

Mr. GREEN (Champaign). I am glad to yield.

Mr. GALE (Knox). The revenue committee, in spite of the fact that there are two minority reports from that committee, would never, in my judgment, and I want the other members to correct me if I am wrong in this—in my judgment would never have provided for any income tax whatever in either of the three reports if they had been of the opinion that they were not restricting the revenue collection of income taxes to the State of Illinois. But section 2 itself shows that the committee supposed, that while the State would levy and collect this tax, it should not alone be for state purposes, but should be distributed among the various subdivisions of the State. The committee was not of the opinion, and I, as one of the members of the committee, am not now of the opinion, that this article, if adopted, section 1 as it is now, and section 2 as it is proposed, will authorize in any way or shape these characters of State taxes. If I am wrong in the construction meant by the committee, if there is any member of the committee who differs with me I want him to get up now and say so.

Mr. KERRICK (McLean). You may remember in my discussion at the outset of this debate, I said, that, for myself, I favor a uniform income tax. I am not now rising for the purpose of defending that kind of tax, but for further remarks, which, I think, will show the delegate from Champaign to his satisfaction that maybe what the delegate from Knox has said is correct. It was certainly the understanding of those who signed either or both of the minority reports that the proposition to have this tax, the income tax, or any income tax, assessed and collected by the State authority, does not confine the tax to a taxation merely for State purposes. For these reasons it is not only provided that they shall be collected by State authorities, but in addition to what the delegate from Knox has said, the article either in the section alluded to, or any other, provides distinctly that the income tax was to be collected by the State and shall be distributed back to the locality from which a portion of it, or all of it, in fact, was secured, and to the proportion to the assessed valuation of the real estate in those communities. So, there is no reason at all, I take it, in answer to what has been advanced, and very ably advanced, except for these exceptions. There is no question at all about the fact that any income tax will be for the general use, as nearly as it can be arrived at upon the basis mentioned, for the communities from which it was received.

Mr. GREEN (Champaign). That is, I understand it is to be distributed back, according to your understanding. If the State is to levy a tax, it may be levied for a great many purposes that now the State levies no tax on.

Mr. KERRICK (McLean). According to the several needs as proposed by the communities themselves.

Mr. GREEN (Champaign). Now, gentlemen of the committee, do you all hear the explanation of the senator, a member of this committee, as to how it is understood by the committee themselves to be administered. He says that it is the idea of the committee that the State by State authority would levy its income for a local purpose to be distributed back to the communities, and that the re-distribution would be pro-rata upon the basis of ad valorem tax paid upon real estate in those communities.

Mr. GALE (Knox). The view of the committee was that income tax could only be successfully left and collected and generally speaking, administered by State authority. I believe it to be true, that not only should I, but that not one member of the committee would have been in favor of an income tax or would have consented to that provision of an income tax if it were to be left to be levied by the local authority according to their own ideas. But it is not true that the State is to levy that income tax according to the local needs. It levies that tax as one tax throughout the State—uniform throughout the State, and then distributes it back to the communities upon the basis suggested by the delegate from McLean, using only that portion of it for State purposes which the portion of the State tax bears to the other.

Mr. GREEN (Champaign). Is he correct when he says that it will be distributed back pro-rata according to the ad valorem tax put on real estate in these communities?

Mr. GALE (Knox). I think that is my understanding.

Mr. GREEN (Champaign). If that is the understanding of the Committee on Revenue on this report, and that is the basis on which they hope to have this graduated tax sustained, I submit to you that it is a thousand times more dangerous than to permit the municipalities to levy it themselves. I say to you it will ruin industries in communities, and drive them from Illinois. It will drive out the collection of invested capital in Illinois, to allow the State authority to levy this income tax upon the profits of their business and distribute it in other communities pro rata according to the ad valorem tax paid on real estate in those communities. It would be safer for those same industrial concerns to allow the municipality in which they exist to levy the tax than it would be to do it that way.

Mr. SUTHERLAND (Cook). Has an income tax of that nature, which has been administered since 1911, ruined the business of the State of Wisconsin?

Mr. GREEN (Champaign). I do not know. I do not know anything about it. But I would say to you that it is unfair; and every man in this committee knows that it is unfair—not only unfair, but dangerous. I do not believe, some way or other, I cannot believe, that this committee eventually will have approved of the opportunity for the spread of the State income tax.

Mr. SUTHERLAND (Champaign). I would like to ask whether he thinks the General Assembly of the State of New York with the general consent of leading citizens of that state, and leading large business—commercial interest—as well as the agricultural interests, would have consented to that sort of tax in the State of New York on that basis, if that power would tend to ruin the business of that state.

Mr. GREEN (Champaign). I do not know anything about that. In some way or other I do not believe, I do not have that sublime faith to believe that if the business interest of the State of New York had their eyes wide open they would have approved an income tax of that kind.

Mr. TRAUTMANN (St. Clair). Do I understand that under this theory as to how it would work out, as stated by the gentlemen from Knox and McLean, that if a large part of the income tax were paid by the County of Cook, that any part of it could be distributed over the State so that those citizens of that county would be helping to pay local taxes in other counties for local purposes?

Mr. GREEN (Champaign). That is what he said.

Mr. DAVIS (Cook). It is unfair to an understanding of the discussion to have it proceed on that basis. Here is the theory of Section Two of the Committee's Report. It prescribes that monies raised in the operation of the income tax in a given county (not in the whole State, but in one of the counties) shall be distributed upon the municipalities of that county, exactly on the same basis as the rates from taxes on real estate. In other words we want to make certain that the very thing that the gentleman from Champaign fears will never occur. Money raised in a given county through the operation of an income tax will be distributed in that county among the municipalities of the county, exactly in the same manner in which the taxes raised from taxation of the real estate is being distributed among those municipalities.

Mr. GREEN (Champaign). I do not intend to be sidetracked from the main discussion of this question by a discussion of the power of the municipality to levy income taxes. But I did say that it is entirely within the range of possibility that it might result from the kind of revenue provision that is finally framed here. However, it may be that the wisdom of the committee, the wisdom of the Convention, would eventually prevent municipalities levying income taxes, or spreading that income tax upon a basis that is unfair. But I simply mention the fact that there will be taxes raised by the State for other things than State purposes, by the levying of an income tax, and that, therefore, this income tax becomes a great element of consideration of the total amount of taxes that are to be raised by the State. Therefore, it is not only the question of the present proportion of the taxes that the tax payers pay that is raised for State purposes as compared to all taxes for all other purposes, because the State here is invited to take over by general law the burden of raising additional taxes for additional subjects and objects that it does not now cover, and it is merely beside to question whether or not they are going to do it themselves or delegate it to some one else. The fact remains that the legislature will provide for the State authority of levying taxes for school and all other purposes, and for general taxes, perhaps, toward State aid for certain kinds of local improvements, maybe drainage districts, or maybe hard roads, all those things to which the State contributes a part, and that now under this article the State would enter a field that it has never covered before; so that, while we may have been protected in our own municipality, by some control of our own taxes for certain subjects and objects over which the State always has had control, yet if this becomes a part of the constitution, the legislature is going to take away from the municipalities and have the right to take away from them, a large share of the subjects and objects of tax which is already covered. That is simply to show that it is not therefore an insignificant portion of the tax.

Mr. MILLER (Cook). It seems to me the understanding of the committee, the Revenue Committee, that under that section two, whatever taxes are raised by income tax from any county, are to go back to that county under the same portion as goes to pay State taxes. I get that from talking with the members of the committee. I want to be clear on whether it all goes back to the county except that portion of it which comes from the share of the State taxes.

Mr. GREEN (Champaign). I do not raise this question to go out into discussion whether it is right or wrong. It is going to be for school purposes. It is for the things which the State does not now cover. They are going to give the legislature the opportunity for raising revenue for these things. They are going out to get taxes which will support these things which now are not supported by taxes raised by the State or by State authority. That being true, the proportion which you are going to pay, which every business is going to pay, and every interest is going to pay, becomes mighty material. Let us take this up, digressing from the question of principle, to simply a matter of figures. If you will give me your attention I will proceed with this as rapidly as possible. I will show you—it is not because I am showing you, but you can figure it for yourselves—this opportunity for gradation opens wide the door for the greatest injustice

to every class or any class of taxpayers of anything that could be suggested. Let us take incomes of five thousand dollars made up in various ways. That is an average income of the well to do—maybe not in the city. It is more than an average in the big city. But out our way it is about the average income—the average income of real tax payers—I mean the people who furnish the real revenue, as an income proposition. Now let us suppose that we have three per cent tax on incomes of twenty-five hundred dollars. Let us suppose that it is to be so graded that we have a six per cent tax on incomes of five thousand dollars. It is two to one. I am just using these figures for convenience. I am assuming a rather high income tax. But if the income would be very much larger and the rate would be less the result would be the same. Let us presume a five per cent income tax from the income on intangibles. That result has been generally suggested. It is said here to make it real and substantial, about eight per cent. Let us take five per cent on intangibles. Let us take incomes made up in different ways by different individuals. Here is a man whose income is five thousand dollars, which is altogether from intangibles. I said that it was wrong in principle between the low salaried man and the high salaried man. This will prove whether it is just as fair for one as the other. The income tax on five thousand dollars is six per cent, and he pays six per cent as his income tax in addition to his substituted property tax on five thousand, that is three hundred dollars, and he is paying five hundred and fifty dollars as against the other man. Here is a man whose income is all from salary. It is five thousand dollars. He pays nothing but six per cent tax, or three hundred dollars. In the case of the man with the intangibles, it is two hundred and fifty dollars more than the other, or practically twice as much as the other man. Then let us take a five thousand dollar income made up in two ways—twenty-five hundred from salary and twenty-five hundred from the income on intangibles. On that income on intangibles he would pay five per cent, or one hundred and twenty-five dollars; on his twenty-five hundred dollar salary together with intangibles—or you can take three per cent on his twenty-five hundred dollar salary; but you add his salary to his intangibles, which makes a five thousand dollar income; and he has got to pay six per cent on it, or three hundred dollars. And, therefore, the man with the salary of twenty-five hundred dollars, who also has tangible property amounting to twenty-five hundred dollars, which he has no doubt obtained through his industry and frugality, if this tax as it is would prevail, would be penalized for his industry and frugality. He would be penalized simply because he has saved his money and put it into intangibles.

Let us go to the farm and see if there is anything in this that would affect the farmer's interest. (Reporter's notes lost on remainder of address.)

CHAIRMAN WHITMAN. The question is upon the adoption of the amendment offered by the delegate from Champaign to the majority report of the Committee on Revenue.

Mr. GREEN (Champaign). I offer the following amendment and move its adoption.

(Amendment lost.)

Mr. CARLSTROM (Mercer). I should like to offer an amendment and have copies distributed. I do not wish to make a speech about this amendment. Copies will be on the desks of the members just as quick as they can be distributed. I just want to state what I have in mind concerning this amendment without making a speech about it. The trouble with our tax situation in the State, as I understand it, has been that there is no way of reaching intangibles because the Supreme Court has held that the levying of taxes must be under the valuation rule, and that rule could not be violated or departed from. It has been stated by gentlemen here that seven per cent of the taxes were realized in the past from intangible. The method provided in this report at the present moment as it stands relating to intangible is a levy of taxes on the income from intangible, and limits the legislature to that one method of reaching intangible. Now, my notion is

this, gentlemen. We would correct the tax situation by not only giving the legislature the latitude with reference to intangible, but also if we enabled them to take the subject of taxation out of the realm of ad valorem. This amendment will allow the legislature to employ any method to reach intangible property, such as, for instance, the filing tax on mortgages. It is done in many states. It would remove the objections that the legislature's hand is tied as to intangibles. In other words, it would give the legislature absolute latitude to pass any method of taxation which would reach intangibles.

Mr. TAFF (Fulton). Gentlemen of the convention, I have not heretofore taken much time of this Convention. Especially have I refrained from making any remarks on the question of taxation, because I have realized my inability to elucidate the matter so well as has the committee which has made its report to this Convention on this matter. They have given it considerable study, and they are much more capable of explaining the taxing situation than I would be. However, on yesterday the committee—the report of the majority of the committee was amended to provide for an income tax—a tax upon the income of intangible property. That, as every delegate of this Convention knows, is a means of classification of property. It means that the intangible property will be in a class by itself. The amendment which now is proposed to that report gets us back to exactly the same position in this State as under the Constitution of 1870. In other words, it is simply an ad valorem tax proposition. If this amendment is adopted, we have all of the evils which are obtained under the ad valorem tax.

Mr. CARLSTROM (Mercer). You say it gets back to 1870. How do you construe that?

Mr. TAFF (Fulton). Because it says that the tax upon all property would be the proportion of tax rate upon intangible property, which is to permit the tax upon other property. Then it is an ad valorem tax. It results in an ad valorem tax, because under the majority report the real estate and tangible property is assessed by valuation. Therefore, you get back under this amendment to a valuation tax.

Mr. CARLSTROM (Mercer). How do you get around the proposition that it expressly states they may use other methods or modes than valuation?

Mr. TAFF (Fulton). While that may be true, that it may use those words, yet it is modified by the fact of the use of the words, "Shall approximate the rate on tangible property," it gets back to the valuation theory. I see in this also another danger. It says it must approximate a proportionate rate on tangible property to be applied? In other words, shall we use the rate used in my city as the proportionate tax rate on tangible property; shall we use the rate which is applied in the City of Chicago, in the City of Springfield, or in some rural districts in the State of Illinois. Is the legislature to assume who shall pay the rate fixed in order that intangible property shall approximate the tangible property rate? There is another danger. Shall we take the rate for State taxes or county taxes or for any other specific taxing body, or shall we take the aggregate, the entire tax, upon tangible property in the State of Illinois, and then fix a rate which will approximate that rate? In other words, if the State of Illinois taxes tangible personal property at the rate of ten million dollars, the legislature then should enact a rate which would produce upon intangible property ten million dollars. There is in my mind no practical way by which this proposed amendment could be operated, could be administered to any satisfaction whatever. It is fraught, as I say, with the danger of being unable to ascertain in any way how the legislature is to act in order that the intangible property tax might approximate the tangible property tax. It is impossible, unless you want to go back to the ad valorem tax. It is impossible in my mind to provide any other method than that provided by the majority report as amended, unless you give the legislature full power over intangible property. But if you are to place a limitation,

that limitation as it now stands in the majority report as amended is the better method. I hope that this proposal, this amendment, will not prevail.

Mr. SIX (Pike). I sympathize with the proposition as stated by the introducer of this resolution. I believe that the majority of the delegates of this Convention wish to do what the introducer of this resolution intends to accomplish by this resolution. This can only result in the same thing which the delegate from Fulton has stated. It puts us back to the Constitution of 1870, with the added disadvantage of judicial construction of this clause. That means this: You will have a competition for seeking to undervalue property. That is the thing that everybody knows has brought about the confusion in revenue today. The urgent solicitation on the part of the holders of tangible property, both real and personal to undervalue and covering up of that property which should not be undervalued—that is what you get by this system. You can meet the competition of undervaluation of tangibles by this clause, so that you get into confusion. We ought not to amuse ourselves by wasting energy in stating a glorious intention, but substituting words here which can do nothing but confuse the entire issue. I cannot support the proposal.

Mr. JOHNSON (Bureau). I wish to ask the mover of the resolution one question so that I may be clear as to what he intends. Under this resolution, if it entered the Constitution, would income from intangible property be subject to an income tax?

Mr. MILLER (Cook). It might be.

Mr. JOHNSON (Bureau). Would it not under this resolution because it does not specify the method—it says the legislature may levy and collect a tax on intangible by other method or process of valuation.

Mr. MILLER (Cook). The income has nothing to do with the things from which it comes. It is a method of taxation. The income is a method of taxation.

Mr. JOHNSON (Bureau). To reach property, it is justified upon no other theory. But under the authority to levy a property tax under the constitution of Illinois today, do you think the General Assembly would have a right to levy an income tax? I mean, under the authority of section one?

Mr. MILLER (Cook). No, sir.

Mr. MILLER (Cook). No system of taxation which is unfair or punitive will work out right in the end. It would not work out permanently.

VOICES. Question.

Mr. DUNLAP (Champaign). I think the language of this amendment, if I interpret it rightly, means that the proportionate tax upon intangible property shall approximate the tax on tangible property. The clause they are undertaking to strike out by this amendment, in my opinion, is a very unfair proposition. In the first place, it is argued here that intangible property cannot pay the same rate that tangible property pays; and then, almost in the same sentence they say there should be a different rate established because of the impossibility of assessing such property, that it becomes invisible to the assessor. Now, the method that has been employed in the past has not been sufficient, we have to admit. But that is not the fault of the present clause; it is because of the fact that it has not been made possible by the legislature; not even possible for those who administer the assessment of property, to find this property and assess it. If we had the same sort of effort along that line as we have had in the past, I believe that the complaint could not lie where it does now. With an income tax conforming somewhat to the general provision of a Federal income tax, it will be necessary to list the source of revenue of this tax, and in that way that of itself will be one means of finding intangible property, and a very effective means of finding intangible property. And once found and placed upon the tax books, my contention is that this intangible property by right should pay the same tax as any other property pays, because its value is as great, its producing value, as the producing value of tangible property,

that there is no reason—no reasonable one at least—why such property should be favored in a Constitution of this State. It is said that if we pass a law compelling the taxation of intangible property, that we are going to drive the intangible property from this State. I do not regard that as having any substance whatever. That is a fear that is entirely groundless in my estimation. The State of Illinois is going to exist and the productive investments that can be made here will be as great as they are in any other State. We find that other States are going along the same lines that we are proceeding by providing for income taxes; and when they provide for these income taxes, they are doing something that this State should also do. They tax upon profits that are made from property. The States that are left for them to go where they will not be taxed on their profits are about as numerous as the Democratic States after the last election. It would be as impossible to find in one state as in another. There are very few places left that they can send their money to where there is no income tax.

It does not seem to me that the words "real and substantial" that are in the committee's report have any meaning whatever. I understand the committee—or some of them—object to this amendment because it will place intangible property somewhat on a substantial basis with tangible property. If they object to those words in this amendment, what in God's name do they mean? When they say that tax shall be "real and substantial," do those words mean anything? I contend that they are utterly meaningless, unless they mean approximately the same thing that is meant by this amendment. If they do mean the same thing, in the estimation of the committee, then there can be no real confusion about the substance of these words that are in this amendment. I object, and I intend to offer an amendment to strike these lines that are stricken out in this amendment. I do not intend to offer any substitute for them, because I thought it was unnecessary. But I am willing to compromise to the extent of being for this substitution here as furnishing some different power to the general assembly to provide some other method of assessment of levying this tax, if in their judgment it can be done differently from that of valuation as provided for tangible property. I am willing to concede that, and I am willing that the legislature should have the power to say that we must proceed upon a definite fixed income tax basis. With regard to intangible property, I think that two classes are entirely wrong. If we had two classes of income taxes we confuse the matter in such a way that it will be both a difficult task to have the amounts of individuals earned under each kept separate so that they can tell what their income is from—whether it is from tangible or intangible; and they must keep three different kinds of accounts—one for personal endeavor, one for intangible property, and one for their income from tangible property. So that, in following along the tracks of the Federal income tax, we are providing for a conflicting system that we ought not to provide. We ought to simplify this revenue matter just as much as we can, so that the individual citizen, in making his returns to the assessor or to the State authorities, can make it honestly and simply, and can understand where he is when he gets through, and so that the authorities may know. Unless we have some method providing tax by valuation, it will not be so. Therefore, I am in favor of this amendment. And I submit if we are to provide some method by which the legislature can have authority, this is the best that has been suggested, in my own opinion, before this Convention.

Mr. KERRICK (McLean). It has been suggested by one delegate that because of the fact in this amendment, if adopted, the direct allusion to an income tax will have been eliminated, that therefore under the language of the amendment under consideration the legislature would not be empowered to enact an income tax. I don't agree with that interpretation of the amendment at all, or the proposition as it would be if amended, in accordance with the motion now under consideration. However, there is no need of any doubt being left as to the construction of the proposition as

amended with reference to whether or not an income tax could be enacted, and I have no doubt the mover of the proposition would be willing to include some word or words which would show that the income tax method was one among those which in a general way could be employed. What I have to say will be said upon the proposition or upon the fact that if it does not already provide to give the legislature a free hand to enact an income tax law, it will be so amended that it will.

CHAIRMAN WHITMAN. Will the gentleman please yield for a moment until we get that straightened out?

Mr. CARLSTROM (Mercer). I think I understand what the gentleman from Rock Island wants, and I consent to the amendment.

Mr. DIETZ (Rock Island). The proposal or amendment offered by the gentleman from Mercer is plainly offered with a sincere purpose to meet the minds of the delegates of this Convention on this subject. There has been some criticism of it because it has been suggested that there might be some doubt as to whether this will permit the legislature to use the income tax method of determining what taxes shall be paid on tangible property. It has also been suggested by some of those who oppose the amendment that the language employed would necessitate an absolute equality of the burdens upon intangible and tangible property, and to meet those criticisms I suggest there be substituted for the amendment offered, an amendment with these changes:

By inserting after the word "valuation" in the fourth line thereof, "including a tax on the income therefrom" and by striking out all that appears in the amendment after the word "taxation" in the third to the last line, so that the amendment will read "The General Assembly may provide by law for the levy and collection of taxes on intangible property by other or different methods or processes than by valuation, including a tax on the income therefrom, but such tax shall be uniform and governed by the rules of equitable distribution of the burdens of taxation."

Mr. CARLSTROM (Mercer). I accept the amendment, because it embodies the principle that I have in mind.

Mr. KERRICK (McLean). Of course this amendment is one that ought not to be hastily construed, or in other words that time should be taken to understand, as nearly as possibly can be, just what it does arrive at. I am not prepared to say exactly what construction might result from a careful analytical scrutiny and consideration of it. But what I say shall be based upon the assumption that the part of the construction would be the same as that of the other amendment, except that it would clearly show that the method of taxation by taxing incomes is not excluded from this amendment. I make that statement because what is said here will become a matter of permanent record and has much to do with the construction which will ultimately be placed upon what we do in this matter, or in any case which is submitted to the highest court of the State. So what I say shall be based upon the assumption that this proposition as now amended, which would be by the adoption of the amendment just read, the ultimate result of it would be that when the legislature in the performance of its duties to enact laws to carry out the intent of what we shall do, shall so provide by legislation that in the round up of the whole matter, for the use of this State and its subdivisions, the minds will be directed by those who have to prepare the ultimate method by which this tax shall be assessed and collected to the one point of obtaining from intangible property taxes which are obtained by property described as tangible property in proportion approximately to each other.

I shall not attempt to discuss this question in a carefully prepared logical order as to how and when that shall follow, and whether in a precisely arranged manner. It will be rather here and there, because I have no special preparation made with reference to what I shall say. I shall begin by talking about a statement made by the delegate from Champaign wherein he stated in his county where land is priced higher than in any county in the State of Illinois, and he was certainly making no effort for

his purpose to minimize the income from farm lands, that the owner of that land would receive in the course of one year with another, and I apprehend he had in mind in the recent fat years as we might call them for that industry, he had in mind those years, and upon that basis, or even upon a basis of twice as many years as those, that the gross income to the owner of that property, and who paid the tax upon it, would be as much as ten dollars per acre. Don't forget, gentlemen, try to keep in mind, that the farmer's gross income from his investment is very far from being his net income and don't forget that the gross income of the intangible property, the net and the gross are the same practically. What I mean by that is this, if I owned an acre of Champaign county land, or a farm estimated by the acre, my income according to his example would be ten dollars, on the other hand if I owed the equivalent in value in intangible property, we would say, it would pay six per cent upon every dollar. I get ten to begin with as gross income, but I have to build the buildings, and take care of the property, and his net income remains the same as his gross income, practically. Mine is whittled down, and I tell you how, and I know it from actual experience, and my experience is substantially the same as every other land owner. So this farm won't go to wreck and so the tenant won't farm it, until the soil is so depleted in fertility it is abandoned, in order to produce the things that this State and Nation need, a certain whittling process is instituted, and has to be instituted to take away down to a certain point, the income, not only to as low a point as the net income of the intangible property, but on an average lower. To begin with, assuming as has been the case here in the past that the owner of the intangible property contributed less than one-sixteenth in proportion to the value of his property, that is based on the tangible property amount, the taxes are not covered by one dollar per acre on the average of Illinois farmland of this value. I am paying and have paid in this present year upon three hundred acres of land in McLean county six hundred and sixty-six dollars, not taking into account that portion of the product of the farm, to be used as fertilizer when winter comes around—it is sometimes late coming around, but is always here at least for a part of the year,—and that comes off probably at the rate of two dollars an acre, about two dollars and a quarter in this particular case. Now that is stricken from your ten dollars. There is not a year on that farm, not to exceed one out of six, that the necessary and absolute necessary repairs that must be made in order that the buildings and improvements may not lapse into a state of utter dilapidation, that one dollar per acre is not required in the way of paint, repairs and substantial buildings, not entirely rebuilding of buildings, but taking care of the operation of the tiles, and fences and numerous other things which I won't detail, but which will come to your mind as we go along. There is insurance to pay on your buildings, and in a not very long lapse of time some other building has become so dilapidated it is not worth while to try to repair it any longer and you have to rebuild it. By this process the result is arrived at, which no one can deny, that the man who obtains, in the last analysis, who obtains as much as four per cent out of farm land, and not with these fictitious and fixed prices, at which one out of one hundred farms is offered for sale and bought by some man who does not care for the interest. I say the net of all this, with an easy and conservative statement is not one part or one fraction of one mill above four per cent. On the other hand you take your man who has accumulated property until he can live upon the interest, which is the description of the owners of about nine-tenths of the intangible property in this State, now just think of the difference. As it is now he pays practically no taxes. As it would be if he paid taxes according to full valuation, it would be less than the farmer is paying now in accordance with his income. It does not matter to him whether hail, storm or hurricane destroys the entire crop, not only to the loss of the tenant, of far more than he can afford to lose, but because in many cases it puts an obligation upon the landlord not only of giving the man time through the process of raising crops to catch up, but

in many many cases in my own observation and in my own experience, either a total remission of what he should pay that year for rent or a partial one.

This is the life work of the people who produce what we eat, and who get four per cent of what we pay for it after it passes through the hands of the various middlemen and those who manufacture it into form for food consumption. These people have been paying your taxes ever since your State was formed. If you would pay up what you are in arrears and if you want to exact justice between man and man and woman and woman you would favor a system of taxation that, instead of practically exempting you from your taxes, would tend largely to exempt from the payment of taxes all those who have been paying taxes for a half century or more. I want to tell you again, gentlemen, that the man who owns a farm and leaves the operation of it to the tenant, does not by that means relieve himself of work to produce such income as that farm is capable of producing. I have been a lawyer for forty-five years, and I have been a farmer during all of that time, and I want to tell you I have spent as many sleepless nights thinking and planning how to make the farmland that I own reasonably productive, and productive to the extent of bringing me a reasonable return for my investment in it. I have been taking care of the interests of my clients as a lawyer. That is not all, I have gotten up at all hours of the night, at all seasons of the year, to go to that farm to see stocks stricken with disease, to see if this or that could not be done, which if not done would cause considerable loss. It has been a considerable part of my business, it is one of the things which has taken from me the strength of my years, working into it the best possible thoughts I was capable of. How about the man who has got the mortgage on that farm? I am not going to talk bolshevism, but I have borrowed money and the man to whom I sent the interest was living on the lake shore and I borrowed it at five, six, seven or eight per cent. I don't blame them. Somebody had worked, somebody had striven, somebody has exhausted themselves and shortened their lives to produce the means by which they could live in luxury and leisure, and it did not matter to them. His word came across the ocean that through a process of deflation, in the wisdom of the people who own the money, it was concluded to extort from the men who raised the food of the country more than seventy-five per cent in some instances of what he thought it would return to him when he paid money for help and material. That does not matter to them at all. Now that is because they have the security of the machinery by which the taxes can be extorted. I won't say extorted, but obtained from the land owners to pay them. It would not cause them one moment of anxiety or one ounce of exertion. There is a difference so radical, so wide and of such meaning between the thing of living off of interest and digging it out of the ground, that instead of us being here to devise ways and means to favor the man who is already favored beyond all reason, we ought to be working from the other end of the problem. My province is, gentlemen, and I believe it is founded on a comparatively long life of experience on both sides of this case, because I have been counsel for bankers and banks and railroads, to as large an extent as a man can probably be in a rural community, for half of my lifetime, for three-quarters of my actual business life, and I know both sides of the question and I am pretty well informed as to the profits made by bankers and brokers, I am pretty well informed what is made by the manufacturers of industries other than agricultural interests, and the truth is, as is uttered in sacred writ, interest outrunneth industry and we have the truth here today in his great agricultural interest, I mean in the richness of the soil, not equalled upon the face of the globe, that there is more invisible property situated in the atmosphere and upon the surface of the State of Illinois than there is in the ground upon which we live and farm, and from which we obtain our sustenance, with which we may live. That has outgrown and outrun industry of every description, except of course where the captains of industry and of unusual ability are in

this line or another, engaged. But you can give me any twenty men you meet in the mingled population of a city, who are without capital but have industry, and ambition to do all they can with their capital, and loan them twenty thousand dollars, at any rate of interest, and at the end of twenty years, fifteen of those will be where they started and not a cent ahead, and the others may by some reason or other, or by some ability to keep ahead, but in the mass the rate of interest eats it up, we know that. It outruns the product of industry, man for man, and so we ought not to approach this subject gingerly, with nothing before our eyes but what we should do to relieve the owners of twelve billion of property as against eight or nine billion of property, who pay the burdens of taking care of people who own this intangible property. So I am for anything, whether it is precisely what I want or not, which either immediately or partially progresses towards something approximating equality between man and man with woman and woman in the matter of maintaining the government under which we live. These are to some extent, by no means to the whole extent, the reasons that I have in my mind why we are looking at this thing from the wrong angle and the wrong standpoint.

Mr. DAVIS (Cook). Will the gentleman yield to the reading of the amendment and apply his argument to the amendment?

(Amendment read.)

Mr. KERRICK (McLean). I believe I have talked more to this body upon this general subject than is perhaps my right, but at this time I shall not say anything further.

Mr. DAVIS (Cook). I move debate be closed, and that we vote on the pending amendment.

(Amendment lost.)

Mr. DUPUY (Cook). I would like to offer an amendment to accomplish one very definite purpose. This amended substitute report says that in lieu of any property tax thereon the General Assembly may provide an income tax. I wish to amend by striking out "may" and substitute "shall." The purpose of this amendment is this, that we shall now by our own act, by the act of this Constitution, put into effect this proposal to have the tax levied on the income derived from intangible property instead of leaving it to the legislature. I am very anxious to see this plan tried out. I think it would be a great mistake for us to leave it out.

Mr. KERRICK (McLean). May I ask the speaker a question on that? We cannot understand this at all unless we have the proposition read as amended.

Mr. DUPUY (Cook). I am undertaking to amend the substitute proposition before the committee which was subsequently amended; the substantial thing that this attempts to reach is contained in lines nineteen and twenty. It reads now as it stands, and as it has been approved by the vote of the committee, beginning in line nineteen "in lieu of any property tax thereon"—that is referring to intangible property—"the General Assembly may provide a uniform tax, on incomes derived from intangible property." The point is that the legislature may do this in the future. What I want to do and seek to do by this amendment is to say that we shall do this thing, not leaving it to the legislature to take the responsibility, but to have this Constitution say that that system of taxation of intangible property shall be adopted. I take it there will be no difficulty in doing that, especially where you provide it shall be in lieu of other tax on intangible property.

Mr. LINDLY (Bond). You just change the word "may" to "shall."

Mr. DUPUY (Cook). Just change the word "may" to "shall." That is all on that part but, however, to make it consistent, above, in lines four and five, the General Assembly shall provide for the levy of taxes upon real and tangible personal property by valuation and so forth, so every person shall pay a tax. Now we have adopted a plan hereby, where we propose to leave the legislature, sometime in the future, if it sees fit, to substi-

tute this system of taxation on intangible property, that is by reaching incomes, they undertake to reach the property. I approve heartily of that and I think it is a great step forward, and I am glad it is done, but I want to go a step farther and say that that plan must be adopted, in the first instance shall be adopted by the provisions of this Constitution, without waiting for legislative action. I have heard this objection made to it, that it does not leave enough flexibility in the system, that the legislature ought to have something to say about it, that this plan may not work out, and it may be found impracticable. That I conceive to be true, that might happen, it is an experiment and we don't know it will work. We know what we have in place of it now has been a failure for fifty years, and we need not expect anything better of it in the present system. If you say the legislature may do this sometime in the future, it means in a slang phrase, "passing the buck." It is not right. We have been here all week talking about this one section, and the legislature comes here with only a limited time to do the various things which come before it, their minds are occupied, they are not sent here for the purpose of inaugurating a system of taxation and smoothing out the inequalities and to adopt a remedy to correct evils. That is not primarily what they come here for. That is primarily what we came here for, we came here for that very thing. More than all of the other things together, we came here to accomplish a system of taxation, and to go back home and say that we have done nothing, but that the legislature may do this or that at some future time, is not to my mind sufficient.

It is a good deal like the king of France, with his twenty thousand men that first marched up the hill, then marched down it again. We have been here a good part of a year's time, and have paid a good deal of attention to it and have thought it out, and are as capable of accepting it now as any future legislature, and maybe more so. I think we ought to put this system in practice and try it out. Now to the gentlemen in this Convention I spoke about, I believe there are a good many people going to feel that there should be flexibility to this system. Let us do this, and if at the end of eight years or ten years, whatever is sufficient time to give it a good trial, it has failed, let us then go back to the other plan of taxation. I would be glad to vote for the other plan as an alternative to be adopted at the end of say five, or eight or ten years, after this plan is inaugurated, if it does not prove successful, but I have so much faith in this plan, of reaching intangible property through the income, I have so much faith in the success of it, I do not believe the people will ever abandon it after giving it an opportunity. I would like to show by our vote here that this matter is to be made a part of the Constitution, and a part of the law just as soon as the Constitution is adopted, without waiting for uncertain legislative action. And one of several reasons for that is this: It has been reiterated over and over again, until the thing is threadbare, that we are so dissatisfied with the present system, we do not get our taxes, and if a man is honest and makes a fair return he is practically confiscated of his property. He is obliged to pay half of his income, an equivalent of fifty per cent of his income, to pay taxes upon his property. It is wrong. It ought not to be. It has produced the two evil results of hiding this class of property and punishing the man who discloses it. We are going right along with that plan, right along with the system, without any kind of relief from it, if you leave it to the legislature until such time as the legislature shall act. That does not appeal to me at all. I think we should adopt this plan and try it out and if it is a good thing we will adhere to it without any question. If it is not a good thing we will put in something of the nature of Captain Carlstrom's plan, as he proposed a moment ago, whereby at the end of a given time, long enough to try this out carefully, that plan may be substituted by legislative action, not through constitutional action, for the plan we are now adopting.

I hope very much this plan will be adopted. The words in the fifth line defining the valuation methods applying to real estate and intangible property are a necessary part of this scheme, if we are going to adopt it now and try it out in the future.

I shall be glad to see this amendment made. I think it ought to be put into effect and tried out and I am quite willing that we should put into the Constitution here what the alternative plan may be, if the legislature in its wisdom shall conclude, and if the people shall believe that the plan has not been a success after it has had a fair trial, but I do not want to go back home and tell our people that we have done nothing whatever after all of the labor we have had here, except simply to say that the legislature may do something it might have possibly done before through an income tax.

Mr. KERRICK (McLean). Is it a fact that by the substitution of the word "shall" for "may" that this proposition beginning on line twenty will read the same as it does now except for that substitution?

Mr. DUPUY (Cook). That would be the result of the amendment offered.

Mr. KERRICK (McLean). Have you any doubt that if the word "shall" is not substituted and the word "may" remains that there would be no income tax enacted?

Mr. DUPUY (Cook). By this Constitution?

Mr. KERRICK (McLean). By the legislature.

Mr. DUPUY (Cook). I have an idea it would not.

Mr. KERRICK (McLean). Have you any idea that the intangible property interest of this State would not make the greatest effort possible to have that kind of a tax defeated?

Mr. DUPUY (Cook). I have given that no consideration. I don't know.

Mr. KERRICK (McLean). Which would relieve them from taxation on that kind of property.

Mr. DUPUY (Cook). I have given that no consideration and I don't know. I cannot foresee the future, but I want to put in that language.

Mr. KERRICK (McLean). Wouldn't it be an interesting concession or a means of enforcing some possibility that the legislature might allow taxation by valuation, wouldn't it be a thing which would cut that out entirely?

Mr. DUPUY (Cook). I want to cut it out entirely.

Mr. KERRICK (McLean). That is the purpose, to make it absolutely certain.

Mr. DUPUY (Cook). Yes, that is the very idea.

Mr. KERRICK (McLean). That the legislature can do no otherwise than to provide that intangible property may be taxed and uniformly taxed at as low a possible rate as can be obtained from it, so that it is any rate at all?

Mr. DUPUY (Cook). Let me say in regard to that, and that is not germane to this particular proposition, I believe it is entirely practical and I sympathize with the objection made by the senator and others who have spoken on the subject, I sympathize with the obvious difficulty of establishing a pro rata between the amount of tax to be imposed for income profits on intangible property and the tax to be imposed by ad valorem on tangible property. It is a very serious difficulty. I am not willing to adopt, neither do I want to vote for any plan which will have the effect or probably result in great disparity between the two kinds of taxes. I have heard a plan discussed here which I think could be adopted, which would meet that. It is something like this. It may be introduced later and I hope it will, if it can be worked out. For a concrete example, suppose you have an acre of farmland worth four hundred dollars, in Champaign county, and at its full cash value; it bears a certain tax, at a valuation very much below that; that may be one or two dollars per year. Take four hundred dollars of intangible property and see what the income on it is at six per cent, namely twenty-four dollars; find out what the relation is between the per cent of the full value of the tangible property, the real estate and the per cent that should be imposed on the income from four hundred dollars of intangible property, and then establish a comparison that will equalize and put that

into the language of your Constitution so that whenever one goes up or down the other must go up or down. I think it is entirely practicable, to work out a scheme of that kind. I want to say I would vote for that, and I am perfectly willing that this property, all of it tangible or intangible, should pay substantially the same rate of taxes; indeed, if there is any way that that can be put into the Constitution I would be glad to see it go in. I am not willing that we should have taken all of this time, and then as I said, to use a very inelegant expression, simply pass the buck to the legislature. I do not believe in that. The legislature comes here with a multitude of things to think about, they have no time to deliberate and talk about and discuss almost endlessly as we have. They probably do not believe it is incumbent upon them to undertake that great load, that we ought to feel is upon us. I want to see this thing put into effect as soon as this Constitution is adopted, and tried out, and if at the end of five or eight or ten years, whatever in the wisdom of this Constitutional Convention may be satisfactory, if it has not succeeded, then let legislative action be sufficient to substitute some other plan. I believe the one proposed by Captain Carlstrom, which we have just voted down, might be a good alternative, and therefore I hope this amendment will be adopted.

Mr. DUNLAP (Champaign). We have been discussing the revenue article, which every one is agreed brought about the Constitutional Convention. The limitations in the Constitution are what brought about the Constitutional Convention. Now it is proposed to give the legislature greater authority and wider power in this matter. It is all right to give them certain permission to do certain things, but when we undertake to say, with the amount of information that we have on hand exactly what they shall do, as we propose to do in this amendment, we are going too far, if we want to have the Constitution adopted. Now that is the way I look at this, I have no objection to this power being given to the legislature. I preferred it in the form that was suggested in the amendment of the delegate from Mercer, because the power that he conferred there was broader than this power because it gave them their methods and processes by which they could ascertain the value and levy a tax on intangible property, but here you definitely fix a proposal in this proposition and undertake to force a vote upon it without any more consideration than we have given it. Of course we have discussed it in the days of this Convention, but when the legislature convenes, notwithstanding what the gentleman has said about their having limited time at their disposal, there is no doubt when they come to act on this article they will take three months. We had a special session for the revenue article, as it was in the revision of the laws, and that took three months, as I remember it, to accomplish the revision of the laws, just as they were under the old Constitution. It is not fair to say that the legislature would not give proper time for the consideration and the disposal of an article of this importance, and to say that we will tie their hands here by what knowledge we have now, and it amounts to no knowledge at all, as to how this would operate, and to fix it in the Constitution so that they cannot revise it after it is once drawn. Such a scheme will not conduce to the recommendation by the people of the work of this convention. The gentleman from Champaign suggested this morning that the income from investment in land in Champaign county was ten dollars an acre. And in that county the actual value of land is four hundred dollars, so what sort of return does that give you, two and a half per cent on your investment. The gentleman conceded that the six per cent could not compete with lands of that kind and pay a tax. Why, the thing is absurd, so I am against an amendment of this kind. This proposes to go back now to the original proposition as reported by this committee, and then go not only that far but go still farther and make this an absolute impossibility for the legislature to act otherwise than in accordance with this proposition. I think it is a mistake and we ought not to pass such an amendment as that in this proposal.

Mr. HAMILL (Cook). The proposal now pending would bring the present article in this respect into substantial conformity with one of the minority reports, that proposed by Judge Shuey. That proposed that the General Assembly shall have power to levy on all real estate and tangible, personal, so that this proposal now made by the delegate from Cook would accomplish a similar result that that minority report would, in limiting the ad valorem tax to real estate and tangible personal property and requiring the income tax on the intangible. I thought that the minority report of Judge Shuey had great merit in that respect, and I think this proposal of Judge Dupuy's has great merit in that respect. I believe experience has shown that the attempt to levy ad valorem tax on intangibles has proven to be a failure and our experience has made it conclusive it is bound to be a failure in the future. The income tax is the correct method of deriving revenue from intangibles. I am in favor of the amendment.

(Amendment lost.)

Mr. HULL (Cook). I offer the following amendment and move its adoption.

Amend section 1 of Proposal No. 378 by striking out the words "principles of taxation fixed in this Constitution" in lines 29 and 30, and inserting in lieu thereof the words "principles of uniformity."

Mr. HULL (Cook). I offer this amendment to bring to the attention of the delegates the criticism of the article which was made by Delegate Green; he called attention to the fact that in one part of the article we had principles of uniformity and in another part of the article we had progressive income tax, and then at the bottom of the section we had a reference to the principles of taxation in this Constitution, and apparently raised the question as to whether there were fixed principles of taxation on account of this apparent difference.

Now, I am not familiar with the sort of taxation that would be levied under this last paragraph; it may be someone who is familiar with the sort of taxation levied under this will explain it to him, and will say that such an amendment is not necessary or is not desirable. But I offer this amendment simply to meet the criticism made by Delegate Green and as to whether or not it is desirable to make this amendment, I will not say.

Mr. MILLER (Cook). If we have an income tax, six times as heavy on one man as on another, how can we have any tax consonant with the principles of uniformity?

Mr. HULL (Cook). This last paragraph applies to other taxes than those specified.

Mr. MILLER (Cook). This principle of uniformity applies to only one particular kind of taxes.

Mr. HULL (Cook). The paragraph reads:

(Reading section 1.)

Mr. GREEN (Champaign). Is not the cause of the trouble there that they have spelled it p-r-i-n-c-i-p-l-e-s when they really mean p-a-l-s, if this article goes through?

Mr. HULL (Cook). I am not a tax expert, but I thought there was something to the point raised by Delegate Green and for that reason I offered this amendment.

Mr. GALE (Knox). Our principles of taxation in this section and section one of the adopted, may, as the learned delegate has suggested, be of no value whatever, and may not amount to principles at all. If you are going to put into here anything concurrent with the principles of uniformity, what is to become of your inheritance tax? I think everybody is agreed that the inheritance tax is a tax that the State should always have the power to levy. I don't know but what far better lawyers than I am have said the State can levy the inheritance tax, only because of the clause which is old section 2 of the Constitution of 1870. If you put in these principles of uniformity you might strike out the right to take a larger proportion of

inheritances of great size than those of small size. Were it not for that I would be in favor of the amendment.

Mr. KERRICK (McLean). Let me remind Delegate Gale, who is perhaps a much better lawyer than I am, that it has been held that the inheritance tax is not a tax, not affected by anything that we say here in reference to taxes; it is not a tax, it is just simply a payment to be made by the heirs for the privilege of inheritance.

It is not a tax at all, they defined that so we are not interfering with that at all, but for my part I will say this, that we have been trying to think about taxation, which is likely to be of very great consequence, and we can cover it in general terms so as to catch anyone that we cannot think of specifically. I think this last clause was just thrown in to take care of any such needs that may exist, but not inheritance, because that is not a tax, but little things which did not occur to the committee to specify, so that there is practically nothing in this tail end. Anyhow, we don't know whether it can be approximated to a great variety of the taxation authorities that are embodied in the foregoing part. I think the best thing we can do is to adopt the motion of the senator that it shall be on a uniform basis. I am in favor of the motion.

(Amendment lost.)

Mr. MILLER (Cook). I move to amend the pending Article 1 by substituting the word "four" in place of the word "six" in line twelve, so that the sentence shall read that the income tax be graduated and progressive, the highest rate shall not exceed four times the lowest rate.

In support of that I want to say only a word. I want to say again in view of the privilege contained in this article to tax intangibles by income tax higher than the income tax on any other sort of income, the reason for a graduation of a tax on other incomes is gone. Now other incomes means a substitution in this first article, and in view of the wording of this article, incomes on earnings, now in view of the exemption of the income on earnings, that small incomes would receive, what reason is there for a graduation of that tax, which is nothing more or less than a penalty upon large earnings and large services? As a matter of fact, at the present time one gentleman here, yesterday spoke about the wickedness that some of us are contemplating in levying the mass of large incomes easily. As a matter of fact, at the present time I know a number of lawyers who whenever they earn one dollar pay more than fifty cents of it to the Federal government. Now the thing has been worked up to its limit, it has been more than worked, and it will have to be for years to come. I just want to say this one thing as an illustration, then I am through. In the report of the Committee on Chicago and Cook County is a provision that the voters of Cook county, the voters of Chicago, may increase the debt limit, beyond the State constitutional limit, five per cent, on a vote of three-fifths of the voters voting upon the subject. The purpose of that was to submit the matter to the vote of those most interested in that particular subject rather than to a vote of the whole State, all of those outside of Chicago not being interested in that subject. Now at the present time in Chicago we have about five voters to every one taxpayer, and obviously when we come to a vote on the subject just mentioned it ought to be a vote by those who have some sense of responsibility. If this revenue article goes through as it is, substantially, there will be a much larger percentage of voters who are tax payers, but those voters ought not to be merely tax payers, but taxpayers whose interest will be affected by a proposal to increase the bonding limit. Now, if we have a spread of one to six on the income tax, and everybody we will say up to five thousand dollars is taxed one per cent, and there is a proposal to increase the debt and the taxing limit, those who have incomes less than five thousand will figure that their rates of taxation will not be affected any, and because of that all those who have incomes above five thousand will be taxed six per cent, and the incomes below five thousand may be taxed one per cent and no increased taxation can be raised by taxing those, only by

taxing the larger incomes, and that will be the natural, the easy, the inevitable thing to do, if there is a spread of one to six, and those within the smaller income will have no fear of their taxes being raised by extravagant increases in taxation, whereas if we keep this down, then every man, when there is proposed an extravagant increase in the debt limit and in the tax paid will feel his own responsibility and will know any such extravagance will fall upon him. It seems to me that is not only a proper thing to do, but it is a helpful thing to do to make each man who goes to the polls so far as possible think of his own sense of responsibility when he is called upon to vote upon extravagant increases in taxation.

(Amendment carried.)

Mr. MIGHELL (Kane). I have an amendment to this section which I would like to have read.

Amend section 1 of Proposal No. 378, beginning with the word "and" of line 12 and strike out to the word "taxes" on line 15, and in place thereof insert "and in either case the General Assembly shall provide reasonable exemptions thereto."

Mr. MIGHELL (Kane). I move its adoption. Gentlemen, the purpose of this suggested amendment is to remove the provision of the subject of the exemptions and leave that matter of exemptions to the legislature. My objection to the provision as it now stands in the article is, in the first place it is unfair to certain individuals, for instance the man whose salary happens to be two thousand dollars, because no exemption under this provision is given him, while the man who can scale his income down to nineteen hundred and ninety-nine dollars, just one dollar less, gets an exemption of one thousand dollars, and it seems to me that is very unfair. Then, again, the exemptions provided in this article, to my judgment, are not sufficiently large. The first exemption referred to a man whose income is less than one thousand dollars. Now, just imagine for a moment, what class of citizens have an income of less than one thousand dollars under present conditions. An ordinary ditch digger can make more than one thousand dollars. It appears to me that that provision is not sufficiently adequate to have any effect or do any good in relieving the burden on the poor man. You know right well that a provision of that kind would not be of any advantage to us in a political way to get the Constitution across. The political powers of the big City of Chicago, who control many, many thousands of votes, put in their platform the provision that incomes under five thousand dollars shall be exempt from income tax, and they got past with it, with a multitude of voters supporting it. I am not here advocating anything as radical as that, but I want to tell you from a political standpoint a provision such as we have in here now would be ridiculous and would cost us many thousands of votes, and would be the hammer which would be used to ridicule our Constitution and make it appear that we were rich men trying to serve the rich.

Again, this provision does not provide for the man who is trying to raise a family. The Federal government was wise in that connection when they established their income tax, and provided for a man who is trying to do his duty and raise a family. They provided that two hundred dollars for each dependent residing with him and being supported by the head of the family, should be exempted from that income tax. I believe that is a good provision. I believe that we should encourage the family proposition. This provision doesn't do anything of that kind and I believe it should be left to the legislature to take up matters of that kind. Now this question of exemptions might vary with different industrial conditions that would result in the country, and I think it is foolish for us to determine in a definite way just what those exemptions must be for fifty years to come. Why not leave that to the legislature? I am not one that believes in throwing the door wide open and letting the legislature do anything, but I do believe in this matter of exemptions we will be wise if we adopt the provision which I have proposed here in this amendment, which is simply

that there shall be exemptions—you see I used the word “shall,” that there shall be exemptions, and those exemptions shall be reasonable, but let us leave it to the legislature to say what is a reasonable exemption.

Mr. MILLER (Cook). Your proposal would open the door wide. Of course, with the exemptions which you mentioned as having been suggested from Chicago, everybody would then come under five thousand dollars, wouldn't they?

Mr. MIGHELL (Kane). It would.

Mr. MILLER (Cook). Is that the purpose of it?

Mr. MIGHELL (Kane). The purpose is to leave it to the legislature, yes it is, but I tell you definitely I don't advocate a five thousand dollar exemption.

Mr. MILLER (Cook). Do you think four-fifths of the voters ought to be non-taxpayers?

Mr. MIGHELL (Kane). Well, my provision don't have anything to do with the four-fifths idea. I am leaving it to the legislature whether it is one-fifth or four-fifths.

Mr. MILLER (Cook). Do you think a ditch digger who earns ten dollars a day ought to be exempt from all taxes?

Mr. MIGHELL (Kane). I think the poor man really pays indirectly a very substantial tax, and I do not favor putting a direct tax on every working man and I am satisfied if you do it the Constitution will never be adopted.

Mr. GREEN (Champaign). I certainly think that there is much of merit in what the delegate has said, but if there was not an invitation to this vicious operation of the law in this amendment I certainly would support the measure, but I cannot do it with that possibility contained in it.

Mr. GALE (Knox). I hope this is defeated, because the graduation feature in the article itself takes care of it. It does seem to me that is taken care of, and it does seem to me one of the valuable features of the revenue article should be so low that every one pays an income tax or some tax at least, which I think is one of the things which makes for good citizenship, and it is for that reason some of the members on the revenue committee advocated such a provision as this.

Mr. MIGHELL (Kane). He says the graduation takes care of the rich and poor, perhaps making it just, and I am asking if he still continues to think so after noticing attached to the graduation feature the word “shall” in my amendment?

Mr. GALE (Knox). I don't think that makes any special difference.

Mr. HULL (Cook). Under the provisions of this article a single man who had an income of ten thousand dollars would not be permitted to have this exemption.

Mr. GALE (Knox). That is true.

Mr. HULL (Cook). Likewise the head of a family who had an income of twenty hundred and twenty dollars, two thousand and twenty, would not be permitted to have the exemption of one thousand dollars.

Mr. GALE (Knox). He would not get the exemption.

Mr. HULL (Cook). Then wouldn't it be desirable to have the exemption a flat exemption of five hundred dollars for a single man, and one thousand dollars to the head of a family, after the Federal law?

Mr. GALE (Knox). I don't think so.

Mr. HULL (Cook). What is the argument in favor of this article?

Mr. MILLER (Cook). Point of order, the gentlemen are not talking to this amendment.

CHAIRMAN WHITMAN. The point of order is well taken.

(Amendment lost.)

Mr. KERRICK (McLean). I rise not to make a motion but to speak of a suggestion made to me by the chairman of the revenue committee. In this proposition and practically all of the propositions, we seem to have assumed without any mention of it in the Constitution that the legislature

will make certain exemptions, probably following closely along the lines of the Federal Government. We have made no provision at all with reference to that kind of exemption. We have made no provision that takes up exemptions. It seems to have been assumed, it has been no doubt assumed, that a certain grouping of things will be accepted by the legislature practically in conformity with the grouping in use now under the Federal income tax system. My attention has been called to that, as I said before, by Delegate Gale. I have no desire to make an amendment, but am simply making this suggestion for consideration as to whether we would not leave the legislature in the dark about that, and possibly without power, without providing certain exemptions here.

Mr. GALE (Knox). I just want to say that I had supposed under that the legislature would be permitted to levy their tax on any net incomes, but if there be any question about that I think the words should be inserted, "Taxes should be levied on net incomes."

Mr. GREEN (Champaign). May I ask the question what does "net income" mean?

Mr. GALE (Knox). I don't know.

Mr. GREEN (Champaign). Then why leave it in the Constitution?

Mr. GALE (Knox). If I may make one further statement, it was perhaps because we were not sure what net incomes were that it was left that way, believing the legislature should be the body that should determine what incomes were that should be taxed.

Mr. GREEN (Champaign). Isn't it your idea under this term they could tax some incomes and leave others out, without saying what should be taxed.

Mr. GALE (Knox). No, I don't think they could do that, I think if they levied an income tax at all they would have to levy it on incomes generally. When we speak of exemptions we speak of the words "net income."

Mr. MILLER (Cook). Is it not your thought in case of doubt as to whether a certain thing was income or was not that the determination of the legislature on that subject would be binding?

Mr. GALE (Knox). Why, I think it was.

Mr. DUNLAP (Champaign). I desire to offer the following amendment and move its adoption:

Amend section 1 of Proposal No. 378 by striking out of lines 12 to 15 the words after "and" in line 12 up to the word "taxes" in line 15 and insert the following, "exemptions of one thousand dollars to a person not the head of a family and two thousand dollars to a person the head of a family, and two hundred dollars for each dependent person in such family shall be made."

I think that in itself is explanatory. It conforms to the rules of the general government so far as exemptions from income tax is concerned, and I think it should be made definitely in the Constitution here. The provision adopted by this committee as to this feature is that it provides that an exemption shall be made of five hundred dollars in the case of a person whose salary is less than one thousand dollars, but when it is slightly over one thousand dollars they shall pay on the entire amount. That appeals to the average person as being as unfair proposition. The same thing applies to the second exemption there, the head of a family, if a person has two thousand dollars and is the head of the family they are exempt to the extent of one thousand dollars; here is another person whose salary is over that amount by fifty dollars, perhaps, and he pays on the entire two thousand dollars or whatever the amount is. Now in view of the fact that we have that in there they might say that is an argument in favor of the revocation of that feature in that section. If that applies, of course, it does not restrict it to a man whose salary is just immediately over that amount, but applies perhaps to a man of one hundred thousand dollars, but we should say this, in justice, I think where you have a graduated income

tax, if we are taxing a man of ten or twenty-five or fifty thousand dollars, a graduated income tax sufficient to make up that amount anyway, in justice to him and in justice to everybody who pays the income tax that amount ought to be fixed definitely upon every individual who is subject to income tax. That is all I wish to say in regard to it. I believe it is fair. I think it will prevent a whole lot of unfair criticism and misunderstanding of the purport and intent of what the committee intended to mean.

• Mr. SUTHERLAND (Cook). I think the Convention should know the reasons why that was put into the majority report and included in all of the reports of the minority from that committee. There was a very strong impression among the delegates who were members of that committee, and delegates who appeared before that committee, that there should be no exemptions whatever from income taxation. It was believed by some of the members of the Convention that there should be no such exemption, and that that was not the view entirely of delegates coming from districts where great wealth is predominant was evidenced by the fact that Delegate Sneed, on the committee, who outside of this Convention is in his public duties connected with the union labor organizations of the State, said that any citizen of the State of Illinois ought to pay his share of the burdens of the State. It seems to me that we have to give considerable thought to that ideal. A citizen is much better in his devotion to his State and in his devotion to his attention to public matters, in his attention that he gives to elections, if he has a money interest in his State commonwealth. Now there is some merit to the suggestion made by the delegate from Champaign that it does seem somewhat invidious to say to a man whose net income is ten hundred and ten dollars, you shall pay on your full ten hundred and ten dollars, and say to a man whose income is only one thousand dollars, you may be entitled to pay on only five hundred dollars. The reason for putting in that provision and not making it a horizontal exemption of five hundred dollars for all persons not heads of families, and one thousand dollars for persons heads of families, was with regard to the revenues of the State, and it was contended by some that a very substantial amount of revenue would be lost if you were to cut off that tax on one thousand dollars from all of the taxable incomes of the State. I think there is something to be said from the point of view of the delegate from Champaign on the question, but Mr. Chairman, when you raise the exemption so high, to double those suggested by the committee, you are going to exempt from their fair share of the burdens of the government a great many people who can well afford to contribute something, and who in the name of sound public policy should contribute something to the welfare of the State. I suggest that the gentleman might get further with his amendment if he would connect to the present suggestions as to exemption, his amendment, and then see what the Convention thinks as between this method and the horizontal method which would apply to all.

Mr. DUNLAP (Champaign). Is it not true that the man who is earning one thousand dollars or two thousand dollars as the head of a family, contributes indirectly as much as any other citizen to the taxes of the State, to make up the necessary revenue to support the Government in that tax, on every commodity almost that he purchases, that is, it is passed along to him and is reflected in the income tax that is being paid by the man who sells this commodity to him, and that being the case, the man who is barely earning enough to sustain his family should be absolutely exempted from that amount of tax. In other words, you are imposing a hardship on a man who is making a bare living in order that you may increase the revenues of the State, when he has already contributed to the revenues of the State in the commodities that he purchases, as his share of the tax. Don't forget that, please.

Now one other thing. I would like to have you answer this point. In submitting the Constitution to the people of the State, it may result in the same sort of propaganda that defeated the Constitution in Maine, that is

the tax proposition in Maine. The propaganda would go out that by thus condemning any sort of an income tax, they will do that as a pretext to condemn and defeat the Constitution? I would be glad if you would answer that.

Mr. SUTHERLAND (Cook). With the consent of the committee I will try to answer the question very carefully. If we follow the theory of indirect taxation to its logical conclusion and carry it all of the way, of course, Mr. Chairman, we would abandon the methods of taxation except upon real property, and some forms of tangible property and corporate taxation, and would depend entirely on those sources for revenue and would trust that they would pass the burden on to the consumer so that the consumer would be paying taxes, really, but paying them indirectly. Now, Mr. Chairman, for many years the Government of the United States raised its revenue on that basis, and I am not saying it is not a fair way of raising them, but it did have the objection that the people did not have a close regard for the expenditures of the government, and that was one of the arguments made for the federal income tax. Now, Mr. Chairman, you can follow every theory too far. There is a measure of reason in everything. I think there should be some exemption, I favor some exemption. I would not seriously object to a horizontal exemption of a very moderate amount, but Mr. Chairman, I think that the citizens of the State and city ought to have a more uniform and forcible relation and consciousness of that relation with the local government than they have with their local government, and the expense and taxes relatively raised for State and local purposes are greater, in proportion to the citizen per capita, are greater than the expenses of the Federal government. Necessarily so, so Mr. Chairman, it does not seem to me appropriate to make the exemption as high in the case of State and local taxation as it is in the Federal taxation. I think there is something in what he says about the political argument, but I do not think we can fail to regard the principle that every citizen ought to contribute what he can to the support of the government simply because we are afraid our Constitution will be beaten at the polls.

Mr. COOLLEY (Vermilion). In reference to this income tax, which is here provided: On Sunday night on my journey from the railroad station to the hotel, in company with a well known newspaper man, we came upon two young men engaged in a bitter quarrel, and satisfying ourselves that they were not armed with anything more deadly than the courage of their convictions, and the breath of the spirit of bonded goods, we decided to await developments. Soon they were sitting on the curbstone singing "We are here because we are here," and instantly my thoughts turned to this Convention. Now we have been here all week and we are discussing at this moment the question of the exempting in this Constitution one thousand or two thousand dollars, and you all know that one thousand dollars is worth more today than two thousand was ninety days ago, and how do you know the worth of one thousand dollars in a year from now? Now, much has been said about the legislature pro and con, reflections have been cast, I am sorry to say, on the legislature. One man wants to dodge the responsibility and pass the buck, on fundamental principles, to the legislature, and let them act on the subject of the exemption as to whether it should be one thousand dollars or two thousand dollars. Now if you will excuse me for saying it, I think it is ridiculous for this body to put figures of that kind in this Constitution. Let us adjourn presently and go home if we cannot write a Constitution instead of a law.

Mr. MIGHELL (Kane). I would like to know why you didn't make this speech when my amendment was before the house.

Mr. COOLLEY (Vermilion). I was leaving the discussion of this question to men that I believed knew more about taxation than I did myself, and that is the reason I did not speak on the subject, but I think we should write a Constitution and not a law.

Mr. TRAUTMANN (St. Clair). Now I don't know whether we are here on account of bonded goods, neither do I know whether the doctors' fees have depreciated the difference that he mentioned between one thousand dollars and two thousand dollars, as compared with a short period ago, but the fees of a doctor in connection with a prescription may have some connection with that, but it seems to me, gentlemen, taking the argument that was made by the delegate from Kane a few minutes ago and repeated largely by the delegate from Champaign, they are both wrong in their figures, at least the delegate from Champaign is, because I take it, from the amount of money that people are earning now in Illinois, in a year, you will have to raise the exemptions or you will have a minority of the people in favor of your Constitution, and if you are simply putting in the exemptions for the purpose of getting votes, let us exempt all people who make less than ten thousand dollars, and then we will get the necessary votes. I am afraid you won't get enough votes for this Constitution on your five hundred and ten hundred dollar exemptions, because they are not making too much income now. If that is the only object of this revenue section, let us get down to business. We have been sitting all week, and the reason we are here is because the people felt that your revenue article in the old Constitution needed a change, to make people pay taxes that they are not now paying, and this proposition is to make more exemptions by Constitutional provision, and exempt them legally so that they won't have to dodge, as you say a good many of them are doing now. I do not believe a fixed exemption should be put in a Constitution. I believe with Delegate Sneed, that every able bodied man in the State of Illinois who has an income should help to contribute towards the support of this government. The mere fact that he may be buying articles now for himself, when prices are high, and is in that way indirectly contributing to the support of the Federal government, does not prove he is contributing a cent to the State government, and why shouldn't he contribute a little in proportion to his income? I believe it will make better citizens of them, and you have a graduated scale here so that he won't be punished as hard as the man who has a larger income, and it does seem to me, gentlemen, it is ridiculous to say in a Constitution that you are going to have a flat exemption just because it is now in the Federal income tax law. Those exemptions were not in the law that passed previous to this income tax law, you gentlemen know it. It would seem to me on this question that you would get along better if you follow the language of the Federal Constitution and let the legislature pass an income tax law. Then in the next forty years, if they want to make a change, as Congress has done, let them make it. If they don't, they don't have to. My idea is to put there a provision to allow the General Assembly to pass an income tax law, that is all I would put in it.

(Amendment lost.)

Mr. HULL (Cook). I want to make the same offer of an amendment, changing the figures five hundred to one thousand dollars. There will be no argument about it.

(Amendment lost.)

Mr. GALE (Knox). We have had nearly three and one-half days of discussion on this motion, and amendment after amendment has been offered, and I now move you, Mr. Chairman, that the report of the majority of the committee, as it has been amended here, be adopted as section 1 of the revenue article.

(Adopted.)

Mr. GALE (Knox). Mr. Chairman, I move that we take a recess until two o'clock.

Mr. MILLER (Cook). As a substitute I move that we rise and report progress.

(Substitute adopted.)

President Woodward presiding.

Mr. WHITMAN (Boone). The Committee of the Whole having under consideration the report of the revenue article, reports progress and asks leave to sit again.

(Adopted.)

Mr. GALE (Knox). I move that we adjourn until two o'clock.

Mr. MILLER (Cook). I move as a substitute that we now adjourn until Monday, November 15, at three o'clock p. m.

Whereupon the Convention adjourned until Monday, November 15, at three o'clock p. m.

MONDAY, NOVEMBER 15, 1920.**3:30 o'Clock P. M.**

Convention met pursuant to adjournment.

Prayer by the chaplain.

PRESIDENT WOODWARD. The Journal of Thursday, November 11, is on the delegates' desks, and is now subject to correction. There being no corrections proposed, the Journal of Thursday, November 11, will stand approved, and it is so ordered.

The Convention will now resolve itself into a Committee of the Whole, and the chair designates Delegate Whitman as chairman.

Whereupon the Convention resolved itself into Committee of the Whole, Delegate Whitman presiding.

CHAIRMAN WHITMAN. The question under consideration is the further considering of the report of the Committee on Revenue, Taxation and Finance.

Mr. SUTHERLAND (Cook). In order to bring the matter before the Convention I move that section two be adopted as a part of the Constitution. and I think Mr. Chairman, that section 2 should be read.

(Section 2 read.)

Mr. SUTHERLAND (Cook). Now, Mr. Chairman, it was the thought of the committee that income tax which must of necessity be levied and collected as a State tax could most appropriately be distributed between the State and the various local taxing bodies in the same proportion that the revenues from taxation on property by valuation are distributed. Some of the states which have income taxes assume to make distribution on an arbitrary basis, some turn in half to the state, others a quarter to the state, the percentage varies, and it seems to be on no well established precedent. It was thought that the elastic method, and the method which would distribute in accordance with the needs of the several government would be the same basis on which taxes are otherwise distributed. I move the adoption of section two as section two of the Revenue Article of the new Constitution.

Mr. RINAKER (Macoupin). Isn't it a fact you now have two income taxes provided for in section one, and if so how does the language that you use in section two apply? Should that not read, "any income tax herein authorized?"

Mr. HAMILL (Cook). Income taxes, plural.

Mr. SUTHERLAND (Cook). I think, Mr. Chairman, the delegate from Macoupin has called attention to a very necessary change made in the Committee of the Whole from the Revenue Committee, and some such changes ought to be made.

Mr. LINDLY (Bond). Income taxes would be right.

Mr. RINAKER (Macoupin). Making it plural would correct that.

Mr. SUTHERLAND (Cook). Yes, I think so.

Mr. RINAKER (Macoupin). Isn't it a fact that section one, in line five, the words "real estate" is not a proper designation of the property upon which the valuation tax is levied?

Mr. SUTHERLAND (Cook). I think, Mr. Chairman, the word property might properly be substituted there for the words real estate. Would that meet the delegate's objection?

Mr. RINAKER (Macoupin). I am not sure whether it would or would not, there are localities where the amount of personal property would be very large but I do not know how it would work out. It is possible the word property would cover it?

Mr. SUTHERLAND (Cook). Well, Mr Chairman, whether it was real estate or property the word rate—

Mr. RINAKER (Macoupin). How about the words tangible property?

Mr. SUTHERLAND (Cook). —is the thing that determines it. "In the same proportion as the taxes levied upon property," would be virtually the same as the language levied on real estate, because under our Constitution the rate is—as we are still continuing it, the rate upon real estate or upon any other property taxed by valuation, would have to be the same, and it was thought that the rate should determine the distribution. It seems to me, "property" while I don't think there would be any real difficulty, in this line was this, it might be more desirable to say property by valuation.

Mr. RINAKER (Macoupin). If you leave the words real estate there, then you would have to consider the taxes or the proportion, for there might be some difference between the taxes on real estate and personal property.

Mr. SUTHERLAND (Cook). Well, the rate would be the same.

Mr. RINAKER (Macoupin). Perhaps that is so.

Mr. SUTHERLAND (Cook). I think it might clear it a little bit.

Mr. RINAKER (Macoupin). But if you use the words tangible property it would be all right.

Mr. SUTHERLAND (Cook). Then you have made a distinction clearly between tangible and intangible?

Mr. RINAKER (Macoupin). Yes.

Mr. SUTHERLAND (Cook). But when you have said by "valuation" and then put the word property, haven't you sufficiently defined it?

Mr. RINAKER (Macoupin). I think so.

Mr. SUTHERLAND (Cook). Because your intangible property is taxed on the basis of the income and thereupon the tax on the basis of valuation is dependent on it, and therefore, it would not come within that category.

Mr. RINAKER (Macoupin). Then in that same line, for the same provision in the language "shall be apportioned and divided between state and local authorities." Is there such a thing as an apportionment and division between the State and local authorities of taxes levied on real estate or on tangible property either? It seems to me that is hardly a proper expression. The committee probably considered it, I don't know.

Mr. SUTHERLAND (Cook). The committee considered it and we all agreed as to the thing to be accomplished, and had the best legal advice that could be obtained, and they thought they had expressed the object in as good language as could be. Now we do not wish to be hasty in this matter and if the delegate from Macoupin has any better language as to that I think the committee ought to consider it.

Mr. RINAKER (Macoupin). Wouldn't the idea you have in mind be better expressed by using the word "raised" as to the taxes levied on property by valuation for the same year shall be raised between the State and local authorities, rather than levied, wouldn't that be a better word? There is no apportionment between the bodies as to taxes, but they are raised in the proportion that they need the money and it seems to me the idea we are trying to express is that income tax shall be distributed in the same proportion the taxes are levied or raised by the taxing authorities.

Mr. SUTHERLAND (Cook). I think if that language is changed it should be changed so as to read something like this: "in the same ratio and proportion as the taxes levied upon real estate by valuation for the same year, shall be levied for state and local purposes" and I don't know whether that would entirely cover it. I am loathe, Mr. Chairman, to urge any changes in this language, because I am not a lawyer and I regret to say that some of the able lawyers on the committee, including the distinguished chairman, are of necessity absent this afternoon, and as long as we have the matter clearly in mind and there is no difference of opinion as to the end to be accomplished I would suggest that we make no change in the Committee of the Whole, let it go to the Committee on Style and Phrase-

ology and then have the matter considered by them, and later it will come before us on second reading, and these matters can be considered.

Mr. HAMILL (Cook). Is there any difference in the different parts of the State as to the amount raised on real property that goes to the local taxing bodies of the State?

Mr. SUTHERLAND (Cook). Well there is a difference, a different rate may be levied for each of the great number of counties, for example they do not all go to the maximum.

Mr. HAMILL (Cook). Generally speaking, the amount paid by real estate in Cook county, what percentage of that goes to the State and what percentage to the local taxing bodies?

Mr. LINDLY (Bond). The State rate is the same all over the State.

Mr. SUTHERLAND (Cook). Exactly.

Mr. HAMILL (Cook). I know that.

Mr. LINDLY (Bond). In this question here the division would be made according to what was going to the State.

Mr. HAMILL (Cook). If I understand what this section means it is this, supposing there raised from Cook county by the ad valorem tax on real estate five million dollars, supposing one million of it was necessary to satisfy the tax levied, then one-fifth goes to the State and four-fifths to the local taxing body, then whatever shall be raised by income tax in Cook county would go one-fifth to the State and four-fifths to the local taxing body, am I correct?

Mr. SUTHERLAND (Cook). That is the understanding of the committee.

Mr. HAMILL (Cook). In other counties it might be one-quarter of the revenue raised by ad valorem taxes; take St. Clair county for instance, or Will county for instance, one-fourth would go to the State and three-fourths to the local taxing body?

Mr. SUTHERLAND (Cook). Yes.

Mr. HAMILL (Cook). So that percentage of the amount raised by income taxes that goes to the State will vary county by county?

Mr. SUTHERLAND (Cook). Yes.

Mr. HAMILL (Cook). That is what I wanted to know.

Mr. MILLER (Cook). To take a concrete example, if one village in Cook county raised one per cent of all the real estate taxes in Cook county, then would it get one per cent of all income taxes from Cook county? You have got not only the same rate in Cook county to be apportioned in the first place between Cook county and the State, but also as between the various taxing bodies of Cook county?

Mr. SUTHERLAND (Cook). Yes.

Mr. MILLER (Cook). And if one village raised one per cent of all the real estate taxes of Cook county, would one per cent of all the income taxes raised in Cook county go to that village?

Mr. SUTHERLAND (Cook). I think it would.

Mr. HULL (Cook). No, you state they have to make the distribution between the State and local taxing bodies?

Mr. SUTHERLAND (Cook). He has already done that.

Mr. HULL (Cook). No, he does not make that assumption.

Mr. SUTHERLAND (Cook). I thought you took it up where Delegate Hamill left it off, that distribution had been made between the State and county, and there would be a redistribution in proportion to the taxes levied within the county.

Mr. MILLER (Cook). Not having studied calculus recently I don't know whether it would work out just that way or not, whether figuring each taxing body, as this does, the rate that goes to the State, and the rate that goes to that local taxing body, there will be hundreds of them in Cook county, whether that would work out accurately. If forty-five per cent went to the State, now assuming that is so, and between the various taxing districts in Cook county, the whole of Cook county, the whole Cook county income tax would be distributed in proportion to the general amount of the real estate tax raised by each taxing body.

Mr. SUTHERLAND (Cook). Let me state it as I understand it, I hope I will answer it after the question. In the first place the distribution will be made as between the State taxes and local taxes, of the sum total.

Mr. MILLER (Cook). And the county taxes?

Mr. SUTHERLAND (Cook). The amount will be determined as to how much of the income tax levied in Cook county should be retained by the State for State purposes, that, Mr. Chairman, will be determined by the State rating upon real property or property taxed by valuation for that year. The residue would then be ready for distribution among the taxing authorities within the county.

Mr. MILLER (Cook). In other words your understanding is that there would first be a division between the State and the local taxing authorities, not individually in the county—

Mr. SUTHERLAND (Cook). No.

Mr. MILLER (Cook). But as a whole in the county?

Mr. SUTHERLAND (Cook). Yes.

Mr. MILLER (Cook). And then after that as between the local taxing bodies themselves?

Mr. SUTHERLAND (Cook). That is my understanding.

Mr. MILLER (Cook). Of course the higher any village in Cook county raised its real estate taxes the more it would get of this income tax raised by someone else in the county.

Mr. SUTHERLAND (Cook). That is true, yes sir.

Mr. KERRICK (McLean). My understanding would be of the situation, as passed upon in the committee, it was assumed between the State and county the State would turn over to the officials the total amount due to that county in the ordinary way, and then the county authorities could distribute it, and it was not necessary for us to provide specifically about that because it is purely a matter of legislation.

Mr. SUTHERLAND (Cook). Well, that was the understanding of the committee.

Mr. TRAEGER (Cook). I don't know that I am exactly clear on this point. If I understand you right this income tax, the argument is if there is a redistribution of it after it is collected, would there be any difficulty, if the law remains as it was, it would be a tax wouldn't it? That is the rate fixed, is so much, and the county so much, and the school district so much and the park board so much, and so on, and on that rate the distribution made of the total amount of the income taxes, and isn't it reasonable to assume that this being an income tax, being a tax, it would be subdivided on the same basis?

Mr. SUTHERLAND (Cook). If I understand the delegate's question correctly, I don't agree with his conclusion, the State income taxes of necessity levied at a uniform rate throughout the State, that it affects equally the income of a person in Galena and in Cairo. It does not have anything to do with the varying rate. And the rate upon income is determined by the needs of the various taxing bodies.

Mr. TRAEGER (Cook). In others you have a flat rate.

Mr. SUTHERLAND (Cook). It would be a flat rate throughout the State for if you have some graduation, at any rate if graduated the rate would be the same throughout the State on the same incomes.

Mr. TRAEGER (Cook). Then the income would not be in lieu of personal property tax would it?

Mr. SUTHERLAND (Cook). Only in this way. What you really say, when you say that the income tax is in lieu of another tax, if you say that the property for which you make so-called substitution, cannot be properly taxed by valuation with any uniformity, and efficiency, and therefore you are not going to attempt to exempt citizens from taxation on that account and therefore you are going to put in an income tax as preferable and supplemental to your property tax.

Mr. TRAEGER (Cook). Based upon the income you or I may have.

Mr. SUTHERLAND (Cook). Yes.

Mr. TRAEGER (Cook). It would not be a tax in the way of money derived from taxes.

Mr. SUTHERLAND (Cook). Yes it would be a tax.

Mr. TRAEGER (Cook). I want to get clear on this and I want to ask this question again, if it is money, though collected in a different form, it still remains taxes, tax money, and the distribution then should be made on the same basis as your real estate tax and other taxes.

Mr. SUTHERLAND (Cook). The distribution should—I perhaps misunderstood you, I thought you had in mind first to get a return of all income and then spread it at different rates in different localities.

Mr. TRAEGER (Cook). No, it is still tax money, and the distribution is the same, is it, that is all I want to know.

Mr. SUTHERLAND (Cook). The delegate's idea is the same as my own.

Mr. BARR (Will). I would like to ask a question in reference to Delegate Hamill's question. I think the language of section two is to the effect that as between a county and State, they shall divide the income tax in the proportion that its real estate tax bears to the real estate tax in the whole State, but that all of the State income tax collected in each county should go to that county, and the State, and be divided between its local taxing bodies and the State; in other words if Cook County furnishes one-half of the income tax collected then Cook county and the State at large would receive that entire one-half of the income tax, in other words, Will county would not get any of the income tax collected in Cook county.

Mr. HAMILL (Cook). I did not understand that it would.

Mr. BARR (Will). I thought that was the purport of the question; and the division would be between the various taxing bodies and the State of the amount collected in each county, and it is to that county the money will be sent to be divided among the taxing bodies of the county.

Mr. RINAKER (Macoupin). Is that division restricted to the return to the county of the income tax originating within that county?

Mr. SUTHERLAND (Cook). Yes.

Mr. RINAKER (Macoupin). Or is it further restricted within the county to the local taxing district, in which it originates, or would it be possible for instance under this or do you attempt to cover the question of whether for instance if Evanston contains all the millionaires in Cook county and all the income taxes originate in that township and taxing district, would they get all of the income tax or is it distributed over the rest of Cook county—do I make myself clear?

Mr. SUTHERLAND (Cook). As I understand it, Mr. Chairman, in the first place there is a good deal of room for legislation in working out the details of this matter of income, and as the distinguished delegate from McLean has suggested, off-hand I would say that Evanston would be entitled to the same proportion of the revenues derived from taxes on its income as it was to the revenues which it was deriving from its taxes on local property for local purposes.

Mr. RINAKER (Macoupin). Supposing all of the taxes in Cook county are located in Evanston and come from Evanston, do you know whether you will give a portion of that income to all the other taxing bodies in Cook county?

Mr. SUTHERLAND (Cook). To this extent as I understand it, I think the General Assembly has some latitude in that connection, if I understand it, if all of the income tax in Cook county is received from the residents of the City of Evanston, the City of Evanston would get whatever proportion of that revenue that it was receiving from real property, but the remainder of the revenue would not for example go to the City of Blue Island, but would go to the larger taxing bodies operating in Cook county, namely, the county itself, the Sanitary District of Chicago, and such park boards as might be included in the territory in the City of Evanston, that was levying a tax on that territory.

Mr. MILLER (Cook). Are you not mistaken about that under this? Let us assume carrying out this Evanston illustration that all of the citizens of Evanston are millionaires and they pay all of the income tax paid in

Cook county. Now this says that income tax from Cook county, which means Evanston, would be apportioned among the various taxing bodies in Cook county, which would mean every village and city in Cook county in proportion to the tax on real estate, so the fact is while as between the various counties of the State, none of the income tax raised in one county is distributed in another, yet as between the various townships, municipal corporations and other taxing bodies in a county there is no distinction made as to where the income is raised, and it is distributed all over the county regardless of where it is raised. Is this right?

Mr. SUTHERLAND (Cook). No I do not think so necessarily. I do not believe it is inhibitive, it seems to me there is a field in which the legislature will have some latitude and will have to have some latitude.

Mr. TRAEGER (Cook). I don't think it is the object of this Convention to change the taxing system insofar as the fixing of the rates. I want to get back to the point. The fixing of a rate is so much for a tax, we will say in Cook county, or the rate proportioned there is so much per county tax and so much for drainage and so much for school, so much for municipals, of that rate, a part, the State tax would go to the State no matter what county it came from. Supposing there were ten thousand millionaires living in Evanston, and none in any other part of the county, there would not be any beneficiaries of that income tax no matter how large it was because it is a county tax and is distributed over the whole county, and expended by the Board of County Commissioners of the county. When you get to the municipal levy, Chicago we will say, gets a one-fifth of the total taxes, levied in Chicago, and it would only be a beneficiary of its municipal taxes, as Evanston would only be the beneficiary of its proportionate municipal tax, so far as the county is concerned, if paid in one block, it would be an equal beneficiary because it is a county levy distributed and extended by the county board and the Board of County Commissioners, consequently so far as the county fund is concerned I say if all of it is collected in one block it would not be equally beneficial, but the whole county would be the sole beneficiary.

Mr. RINAKER (Macoupin). Shouldn't the City of Chicago be benefitted?

Mr. TRAEGER (Cook). It gets its share in the Cook county levy, and they get their proportion so far as a municipal levy is concerned.

Mr. RINAKER (Macoupin). Should the City of Chicago get any income taxes out of the revenue derived from the income produced in Evanston?

Mr. TRAEGER (Cook). No, sir, they are not entitled to it because the City of Evanston has its own city purposes, and own municipalities so far as the city taxes are concerned or the municipal taxes, and they fix their rates there the same as our rate is fixed, and we in Chicago are not entitled to what would be paid in Evanston or Blue Island, but we are on the county appropriation the same as the State is a beneficiary of each county in the whole State.

Mr. SUTHERLAND (Cook). This is my understanding of this section. I think the delegate from Cook county has the idea the same as the committee has.

Mr. TRAEGER (Cook). I don't know whether this section would cover it, I think there is room for legislation on that subject within the article.

Mr. MILLER (Cook). I am very clear in my own mind that the statement about it is a correct interpretation of this section. I am not criticizing it because I don't know what the practice has been in other states where they have income taxes. Let me ask if I may whether this provision is drafted after any provision of any other state which has an income tax, or any other constitutional provision. It follows the provision contained in the other income tax laws not in language at all but on the same theory.

Mr. MILLER (Cook). May I ask one more question? Can you tell us how this tax, we will say, levied in Cook county, income tax, I am assuming for the sake of argument that it is all collected in the City of Evanston, would be apportioned as between the City of Chicago, and the County of Cook, I am now speaking about the city taxes of Chicago, the county

taxes of Cook county, the school taxes of the City of Chicago, and I will say school taxes of the Evanston district, whatever it is, and the park district taxes, and sanitary district taxes.

Mr. SUTHERLAND (Cook). Now I wish the delegate would use either the municipality of Evanston or which ever school district in the City of Chicago he means to call, because it is rather difficult to answer the question. We will suppose a man is a resident of the City of Chicago—or we will take this with reference to all of the revenues derived from incomes returned by citizens of Chicago, now that would be distributed first of all to the State, for its share, and the residue would be then ready for distribution within the county, and that would be as I understand it distributed to the city, to the schools, to the library, to the park district, and covering the whole territory involved, and to such other general taxing bodies in that territory as there might be levying taxes by valuation in proportion to the amount levied by valuation on the property.

Mr. MILLER (Cook). In proportion to the total amount?

Mr. SUTHERLAND (Cook). Yes.

Mr. MILLER (Cook). The total amount raised by each one of the taxing districts on real estate?

Mr. MILLER (Cook). Yes.

Mr. HAMILL (Cook). How many taxing districts do you know in the County of Cook?

Mr. SUTHERLAND (Cook). Do you mean including all of the towns and villages within the county?

Mr. HAMILL (Cook). Yes.

Mr. SUTHERLAND (Cook). I would have to guess, but my judgment is between two and three hundred.

Mr. HAMILL (Cook). And the total amount of income tax derived from the income of citizens of Cook county, less that which goes to the State, will be apportioned out among those two or three hundred taxing bodies?

Mr. SUTHERLAND (Cook). In the rough, yes.

Mr. HAMILL (Cook). I mean naturally, not in the rough.

Mr. SUTHERLAND (Cook). By that I do not understand that in the absence of further legislation Blue Island would derive revenue from income taxes in Willmette, we will say.

Mr. HAMILL (Cook). How could it be otherwise with this provision?

Mr. TRAEGER (Cook). They would under the county tax, it would be unjust because it is a tax levy.

Mr. SUTHERLAND (Cook). It is not a tax levied for county purposes, but levied in Blue Island for city purposes, in Blue Island——

Mr. HAMILL (Cook). How can you divide it between the State and county officials in the same ration as taxes levied on real estate unless you take the total amount and distribute it between two or three hundred taxing bodies?

Mr. SUTHERLAND (Cook). I guess I am wrong on that.

Mr. HAMILL (Cook). Possibly if the tax is distributed as you say, then there would be withdrawing of the rich men congregated in Evanston, some of them at least.

Mr. SUTHERLAND (Cook). Yes.

Mr. HAMILL (Cook). I see. The distribution of this tax must be arranged in some manner so as not to bring to any particular locality any overwhelming advantage by reason of the large number of very large incomes and income tax payers, who might go there and might colonize for the purpose of getting this advantage, which as it now is, some particular section might in some slight degree be deprived of by the application of this rule. I want to emphasize at this moment the purpose that was in the mind of the committee.

Mr. SUTHERLAND (Cook). It makes no difference where you live in the county.

Mr. HAMILL (Cook). It makes no difference where you live in the county the incentive was to defeat the idea of colonization of men of large incomes.

Mr. KERRICK (McLean). As I understand this matter, taking the county as a unit, regardless of what particular taxing district the income is derived from, that is far more likely to work equitably than any attempted distribution according to the precise locality of the residence of the individual tax payers, or they will have tax payers by the bushel or thousands of bushels in a district so limited that they would not know what to do with them and it is well understood that we cannot get any absolutely arithmetically exact method of distributing this tax. Now, to illustrate probably the largest income tax payer in any county is a man whose income is derived almost exclusively outside of the locality of his residence, and take the counties down State and that is particularly true, because of the classification of land in the counties, particularly in a very large part centered in the villages and cities, you cannot get any absolutely arithmetically correct method of distribution. I thought at the time this matter was before the committee, and still think, we can more clearly arrive at equity by taking the county as a unit as provided, and perhaps the whole county, including the large tax payer who lives in given districts, and they will all be more benefitted by such distribution than any other we can think of. I think that that would come very nearly working out approximate equity and justice. That is my view of the matter, and I think the section as it is perhaps as good as we can make it.

Mr. HULL (Cook). May I ask the gentleman a question: Was the committee unanimous in the recommendation of this second section?

Mr. KERRICK (McLean). There was no minority report; I stated in my opening remarks on this whole subject, that as to every section in the article except section one, the members of the committee were in substantial accord, I did not mean by that that they were exactly pleased with every part in every section, but this one section was given a great deal of consideration, as I remember it, and as far as I knew the members who subscribed to the minority report were fairly well satisfied. I can see it would operate well in a county like McLean; we have a great many men who pay larger income tax in the City of Bloomington than any considerable do who reside outside. However, residence is a matter of shifting and changing, but the whole county would be benefitted more by distribution such as is provided in this section than by any other that I can think of. The tax is kept within a limited district, kept where it comes from, within a limited district. I cannot see how any great wrong or inequity can arise under this distribution. In fact I can see no possible method other than this that can be supplied.

Mr. RINAKER (Macoupin). If the construction of the gentleman from Evanston is correct as to the meaning of the committee by this section, I don't like it as one delegate. If it is right that any property shall loose a situs, to use a legal description of it, other than the county, then it seems to me it would be equally right to say that that property shall have no other situs than the State, because you have no right to take revenue for the City of Blue Island, for local purposes, from the City of Evanston. If you have the right to do that then you have the right to take the tax derived from the citizens of Cook county and help to pay the municipal burdens within the County of Alexander. It seems to me that the only basis that you can consistently take, that the only alternative you can consistently recognize is this, that the income tax has the same situs that any other source of revenue has, whether it is real estate or tangible personal property, and it is taxable at that situs in just the same way that tangible property is. Now, if that is sound, then the income payer in Evanston should have the taxes raised from his income applied, of course, first for State purposes, secondly for county purposes, and then for any school district, within which he lives; or any other taxing body within which he lives, and it would be wrongful to take all his property—a wrongful taking of his property to

take a tax from him and apply it to any other municipality or any other subdivision.

If I am wrong on that position then I say you have the right to take this tax and add it to the State tax and distribute it into the State, and no right to restrict it to the particular county in which that tax is raised. That is the way it strikes me.

Mr. HAMILL (Cook). If you would pursue your logic to the end wouldn't you be driven to this situation; that you would either have to have a different rate of income tax in different parts of the State or you would have one part of your State, one municipality for instance in Cook county with a very much larger income than it needed for the given purpose, and another part starving to death?

Mr. RINAKER (Macoupin). I think that is where you are going to land; bound to land there, unless you take the income tax as a common tax, raised from income all over the State, and then distribute it to every subdivision of the State, which I think is theoretically wrong.

Mr. HAMILL (Cook). That would not improve the theory any, it would only make it worse.

Mr. RINAKER (Macoupin). I think it would make it bad; but I do not see how you are going to get away from it, unless you give the income a situs, the same as you would a farm.

Mr. HAMILL (Cook). Just proves the difficulty of carrying the question to a logical conclusion; sometimes you cannot do it.

Mr. TRAUTMANN (St. Clair). As I understand this section, as now worded, it simply provides that the State should retain its proportionate share, and the county should get the balance?

Mr. KERRICK (McLean). It says the income tax collected from each county shall be apportioned and divided between the State and local taxing authorities, within and including each such county, that means every local taxing authority within Cook county. Then it is restricted to the county within which the revenue is derived, and that I say is illogical. I agree with the gentleman from Cook county that that is wholly illogical, and if you are going to distribute it it should go all over the State. I cannot defend that proposition.

Mr. TRAUTMANN (St. Clair). You maintain under this language it would not be distributed proportionately in each subdivision or local taxing body in which the tax is collected, which is required to pay its share on the taxation?

Mr. KERRICK (McLean). As I understand this, as explained by the members of the committee and other members discussing it, an income tax raised in Cook county would go to the State first, and then to the county, and then to every taxing body in Cook county, and it would not go outside of Cook county. My position is if it goes outside of the particular taxing district within which it originates, then it should go to every other municipality of the entire State, because there is no reason why you should stop at county lines with that kind of distribution.

Mr. TRAUTMANN (St. Clair). As I understand now with this provision it does not go outside of any taxing district in which it is located?

Mr. KERRICK (McLean). Yes it does.

Mr. TRAUTMANN (St. Clair). I don't understand it; it cannot be used in any other district outside of the district in which the man lives.

Mr. KERRICK (McLean). It goes to every school district in Cook county.

Mr. SUTHERLAND (Cook). I don't so understand that. It might be susceptible to legislative action, as it stands I think it applies to local taxes, **strictly**, and **only** goes outside of local taxing districts when the taxing district which is to be benefited by it includes the local district in which the payer of the income tax shall live. In the first place here is a state levying and collecting a tax on income upon the citizens, the first subdivisions in the State are the counties; the first division and apportionment therefore is made between the State and county, and the State tax, is only the portion of such tax from each county as indicated by the proportion of the State

tax levied by valuation upon the property of that county. In that ratio. Now the county is the next large unit in the distribution, and that distribution is made within the county; I do not see as this section stands how any resident or how any taxing body, that is city, village or incorporated town can draw that revenue from a division of the income tax proceeds from any other revenue than those raised from that source within its borders.

Mr. WALL (Pulaski). This income tax is levied and collected by State authorities, as I understand the article, that is at a uniform rate throughout the State.

Mr. SUTHERLAND (Cook). That would have to be taken in connection with section one. It would be for the General Assembly to provide for a uniform tax, then it would be a uniform rate; throughout the State. At any rate it would be uniform rate for the same amount throughout the State.

Mr. WALL (Pulaski). It would be practically a uniform tax on incomes throughout the State.

Mr. SUTHERLAND (Cook). Practically so, yes.

Mr. WALL (Pulaski). The only difference between that and a real estate tax, is that the real estate tax is not uniform except as established by the State board for tax boards, and assessed and levied by local authorities. I want to ask you this; the 500 millionaires reputed to be living in Evanston, if they had \$100,000 worth of real estate in Evanston upon which they paid real estate taxes, and they had five million dollars worth of income, on which they paid an income tax, which was established by a uniform law of the legislature, as applicable to all other income taxes in the State, the same rates; suppose an income tax derived from these millionaires being levied by State authorities, being uniform as to the amount raised, by per cent, suppose they raise twenty-five times as much or fifty times as much real estate tax, would it be apportioned, as it now stands, by the local taxing bodies, part for school purposes, part for church purposes, part for county purposes, and State, and etc., and part for city purposes by the taxing board in Evanston. Now, suppose the rate upon assessed valuation is fixed by the taxing board in Evanston for real estate for city purposes at fifty cents on one hundred dollars, would that same rate be fixed on this provision for incomes for the proportion of tax derived from income?

Mr. SUTHERLAND (Cook). If I understand it, I never before qualified as an expert witness, I never was asked a question of quite so much hypothesis, I think that the amount of revenue derived from the City of Evanston would have to be contributed in proportion to the tax on real estate in Evanston considered in connection with its ratio with all other real estate taxes by taxing authorities in the county.

Mr. WALL (Pulaski). Wouldn't a portion of the taxes raised on incomes be collected and used by any other school districts or other local taxing bodies outside of the situs of that body?

Mr. SUTHERLAND (Cook). It seems to me it would.

Mr. HAMILL (Cook). Yes.

Mr. WALL (Pulaski). For instance, it means this, if the city of Evanston should levy seventy-five cents on one hundred dollars for school purposes, and the State should levy seventy-five cents on one hundred dollars, in the district in which the school district is located, the real estate in that local district would pay a different proportion than the income tax would pay, to that particular locality?

Mr. SUTHERLAND (Cook). Yes, I think there would be some necessity of the legislature fixing a rate of that sort.

Mr. WALL (Pulaski). Is there any sound principle of law upon which the man must be taxed for the community in which he lives? If all of the millionaires in the City of Chicago or the State of Illinois should move to Evanston would that give us the right to tax their property for local taxing bodies outside of the City of Evanston? Will this not tend to deplete the millionaires in Evanston and scatter them against their will over the entire State?

Mr. SUTHERLAND (Cook). Well, generally within a county there is a good deal of community of interest, and I do not think within a county there would be such a great amount of harm done. I don't think any harm would be done by this sort of a provision. Generally where wealth congregates the valuation of real property depreciates, and the needs of government are extended and the expenss of government increases.

Mr. WALL (Pulaski). Let me ask you this; just what do you mean in article two here by saying all taxes levied upon real estate by valuation for the same year shall be apportioned and divided between the State and local taxing authorities, within and including each such county, the income tax collected from each county shall be apportioned and divided between the State and now what else? The local taxing authorities within and including each such county in the same ratio and in proportion as the taxes levied upon real estate by valuation for the same year shall be apportioned and distributed between the State and local taxing authorities. Wouldn't your theory that that part of this tax can go to some other school district or some other taxing body for the relief of some other county be incomplete and direct contradiction?

Mr. SUTHERLAND (Cook). I stated at the outset that I was not a lawyer, much to my regret. Since I was elected to take over the laboring oar on this matter; some of the distinguished members of the committee who have the advantage of being lawyers have come into this room and I would like to ask one of them to answer Judge Wall's question.

Mr. BARR (Will). I think I have stated my mind as to the language of this section. The language is simple and subject to but one construction; the distribution between the local taxing bodies and the State would be in proportion to that body's tax and the State tax, with reference to each local taxing body, and if there were five hundred millionaires in Evanston and the tax on real estate in Evanston was no more than the tax on real estate in Blue Island, the Blue Island section would receive the same proportion of income tax from the millionaires in Evanston; that is the way I read it.

Mr. DAWES (Cook). I am looking for light; it is quite apparent to me that when the delegate from Macoupin was asking questions about the meaning of this section that he had in mind the taxes that were raised on the income from intangible property, or the income tax which was substituted in lieu of the property tax; at any rate his questions interpreted themselves to my mind that way. Now the members of the committee upon revenue and taxation will bear me out in this, when this article was prepared we had in mind the levying of an income tax, general income tax, and upon the distribution of that general income tax there was not much difference of opinion.

I feel very sure that every member of that committee understood that the effect of this article would be exactly as was pointed out, and as has been stated here by the delegate from the 7th district, and I think that that is unquestionably the proper way to have it distributed. There is no property; there is no situs, and the tax when distributed according to the ratio established in the distribution of the real estate tax would not produce any gross inequities, and would not create any tendency towards colonization, or provide any reward for rich men to live in a particular locality. But we must remember in considering this article, and I doubt very much if the members of the committee had quite realized that a very different situation is surely produced when we substitute the income tax for tax upon intangible property. If five hundred millionaires live in Harvey and are taxed upon their income from their intangibles, instead of from the principle of their intangibles, then by reason of the change in taxing there is withdrawn from the tax levy for the support of the schools in Harvey a certain sum, and there is no corresponding return to them in consideration of that. It seems to me a distinction surely ought to be made here between the general income tax and that income tax when it is used by way of substitution for a tax upon property. Now, wherever it is used as a substitute for a tax upon property and thereby deprives that community of the revenue which it formerly received by taxing that property by value, then surely the pro-

ceeds of that income tax ought to be distributed to the local taxing bodies and for the support of the local government, and the local schools and activities such as that, in the same proportion as the proceeds of the property supplanted by the income tax were distributed.

Mr. BARR (Will). Were you asking me a question?

Mr. DAWES (Cook). I am asking you to correct me if I am wrong. And some arrangement ought to be made with reference particularly to the distribution of the tax that ought to prevail in the case of uniform tax in substitution for the tax on intangibles.

Mr. BARR (Will). I was simply replying to the inquiry as to what the language meant as written and I was not endeavoring to answer the question as to whether the same rule should apply to income tax derived or levied as a tax on intangibles, as to a general income tax. I was not asked that question and I did not answer it.

Mr. LINDLY (Bond). Won't it also become important when you recognize the fact that you have to subtract the income tax from the ad valorem tax; wouldn't the community suffer just the same way?

Mr. MILLER (Cook). It is the other way around, the ad valorem from the income.

Mr. LINDLY (Bond). It is in the same locality.

Mr. DAWES (Cook). Only on the specific property on which it is derived.

Mr. MILLER (Cook). That would not make any difference.

Mr. GRAY (Adams). With the permission of the convention I will give my interpretation of the language of section two, and I have given it careful study, and I believe I have the interpretation which would be best for all here. I believe the interpretation of taxes levied in a county, even a county which would have thirty taxing bodies, would be distributed among those thirty taxing bodies, in proportion to the assessment of property, even though all that income tax might come from one of those municipalities, because the county here is the unit of the distribution of the income tax. Now, if that is not the purpose or intent of the committee, and if it is the purpose and intent of the committee to have the income tax go to the municipality from which it comes, then this section must be modified to conform to that.

Mr. WALL (Pulaski). With reference to real estate is that so divided?

Mr. GRAY (Adams). The term "real estate" as here used has been understood to include all taxable property whether tangible or intangible, and it is to be changed on the basis of taxation for the distribution of income tax, which is to be on the basis of the property values.

Mr. WALL (Pulaski). Do you mean to say a farm or lot in the City of Evanston, if there be a farm in Evanston, any portion of that tax would go to support any other municipality in the County of Cook?

Mr. GRAY (Adams). No, the direct tax would be held locally, to any income from that county, whether from that municipality or any other.

Mr. WALL (Pulaski). Then what do you mean in section two by saying all income taxes collected from each county shall be apportioned and divided between the State and local taxing authorities, the same as real estate taxes?

Mr. GRAY (Adams). Let me answer that, suppose the valuation in any county of the assessed property is one hundred per cent, and there are thirty taxing bodies, and the assessed value of the property in one taxing district is three per cent and in another four per cent and in another two and a half per cent, and so on, until the thirty taxing bodies make up the one hundred per cent, now then, in proportion to the value of the property, the valuation of the property in the various municipalities, they will pay the direct tax and the owners in those districts will receive back all of the taxes levied on their property tax, but when it comes to the distribution of the income tax, the county is made the unit, and if perchance all of the income might come from one municipality it would be distributed among the several

municipalities of that county just in proportion as the value of the property tax is distributed throughout the county.

Mr. WALL (Pulaski). Then I am to understand by section two it means this, that upon real estate any taxing body, local taxing body, where the rate of the taxing body for all purposes of taxing is five per cent, that the taxes arising out of real estate shall be divided by seventy-five cents on one hundred dollars for this purpose, and eighty cents on another one hundred dollars for another valuation, until that five per cent is reached, and the State tax and the county tax is taken out of that and probably three per cent for local taxing bodies, and that exhausts that tax as far as the real estate is concerned?

Mr. GRAY (Adams). Yes.

Mr. WALL (Pulaski). When we come back to the income tax according to your theory, if the income tax is two per cent, and I believe that we have a graduated income tax here, that two per cent does not stop outside of the State and county tax, and the balance does not necessarily go into the local taxing bodies, municipalities, school districts, etc., but it may be considered as county property to assist and help pay their taxes in the county, is that it?

Mr. GRAY (Adams). Yes.

Mr. WALL (Pulaski). Is that what it means?

Mr. GRAY (Adams). Just the way you worded that I am not quite sure; let me put it this way; if the assessed property tax in any municipality, township or village, which is made the basis of taxation, should be five per cent, and another one three per cent, and so on, now just in proportion as each municipality and its assessed property valuation bears to the whole that municipality will receive the income tax from the county whether that income tax comes from any one municipality or another; it is equally distributed, or as I said before whether perchance it comes from two or three of the municipalities of that county it is distributed in the same.

Mr. WALL (Pulaski). It does not mean exactly what it says, according to my construction.

Mr. GRAY (Adams). I think so; my explanation I think is in harmony with that language, and that is what I have been talking about. I think I am correct.

Mr. WALL (Pulaski). In other words you think it was intended here to tax property for the purpose of distribution outside of the situs of the property, for a purpose in which it has no interest, and deviate from the hitherto well established principle of the situs of the property?

Mr. GRAY (Adams). Yes.

Mr. WALL (Pulaski). And simply because of the income tax?

Mr. GRAY (Adams). Well, a portion of the tax is to be received by income tax in addition to the property tax, but as to the distribution of that, as I said before, the county is made the basis, the unit, and the municipality is to receive that county income tax in proportion to the valuation of their property tax, but not in proportion to the income which might come from any one particular municipality.

Mr. MILLER (Cook). Just one word in reply to the gentleman from Cook, Mr. Dawes. He made the suggestion that there ought to be perhaps an allocation to the particular taxing district of the income tax upon intangible collected from that district, in lieu of the personal property tax. It seems to me it would be impractical, impossible and undesirable that that sort of income tax from intangibles in lieu of the personal property tax be treated in that way, in that respect any different from any other income tax. As an example let us assume for instance that there are five hundred millionaires in Harvey, all of whose income is from intangibles, and the State rate is assessed on those five hundred millionaires, if all of that income is allocated to Harvey, while Harvey might not have more money than it wanted, it would have more money than it needed, and other counties would be deprived of it, and the fact that the rate must be a uniform rate throughout the State, would make it impossible for any locality to collect

in proportion to its needs from intangibles by means of the substituted income tax, unless the local authorities were given the authority to collect the income tax, by authority given by the legislature. It seems to me that that should be an answer to it. Just one more word; I find from talking with the members of this committee that at least two of the members of the Revenue Committee have the idea that section 2 provided for a division of the income from different counties, only as between the State and the county, leaving it to the legislature to determine the division as between the various taxing districts of the county. That is not my interpretation, but these two members of the committee had that interpretation, and if the section is subject to this construction, of course it would be clear. It seems to me in order to have the meaning suggested, it would have to state that this income tax should be apportioned between the State and local taxing authorities as a whole, and as it stands it means exactly as the last speaker said.

Mr. TRAUTMANN (St. Clair). I desire to offer the following amendment:

AMENDMENT No. 12.

Amend Section 2 of Proposal No. 378 in line 4 by inserting after the word "county" the following "in which it originated."

Mr. TRAUTMANN (St. Clair). That amendment is offered on account of the answers that I received to my question sometime ago, with reference to how this income tax paid back to the county should be distributed. In view of the fact that this is a personal tax it seems to me it should be distributed the same as any other tax, that the individual pays, whether it be on his personal property or upon his real estate, that it should only be distributed among the various municipalities in which the owner lives, or the tax payer lives. Now, if he lives in Evanston this tax should be distributed among the different municipalities, the same as if he was paying any other personal tax, for the same school district, the same city, the same park district, or if he lives in some other place, the same levee district. That is, after the State's share has been taken out and the county's share, and I don't know whether this quite covers it or not, but it seems to me it does, starting to read with the second line: "all income taxes from within each county shall be apportioned"; now, if that is the intention, and the original language does not cover it, my idea was that this language does, if it is not the intention of the committee or of the Committee of the Whole to so distribute it, then according to the answers I received to my question, it would be distributed in all of the districts all over the county; my idea has been that the tax,—when a man pays taxes, no matter whether on real estate, personal tax or income tax, he should only be required to pay taxes in the particular municipalities in which he lives or in which his property is located. He should not be required to pay taxes in a school district in any other city or village in the county.

Mr. HULL (Cook). By your amendment would an income tax assessed against the man living in Evanston be apportioned partly between the school district in which he lives and the City of Evanston and the Sanitary District of Chicago and the County of Cook?

Mr. TRAUTMANN (St. Clair). I would think so. If his real estate taxes were so distributed, it would be. I am trying to accomplish this thing the income tax should be applied only to the same municipalities that a man's real estate is taxed for, the home in which he lives.

Mr. WALL (Pulaski). Isn't that what this means?

Mr. TRAUTMANN (St. Clair). They told me it did not. That is why I am offering the amendment.

Mr. DAWES (Cook). You think the phrase "in which it originates" modifies the noun "authorities"; and then shall be apportioned; because if it modifies county, I don't see how it adds new ideas to the section.

Mr. TRAUTMANN (St. Clair). You have already put it in the wrong place.

Mr. DAWES (Cook). I don't know that it is in the wrong place. It may modify that, I understand. You have the idea that it should be divided between all of the taxing bodies in which the real estate is situated, that is your idea?

Mr. TRAUTMANN (St. Clair). Including the county.

Mr. DAWES (Cook). Yes, school districts and the municipality?

Mr. TRAUTMANN (St. Clair). Yes, but not some other municipality, that is my idea.

Mr. HAMILL (Cook). If you insert your addition after the word "authority" in the sixth line, you would come closer to doing it. It seems to me the matter of the division of taxes between the county authorities is a matter sufficiently troublesome so that it can be left to the General Assembly, and I think the General Assembly has sufficient latitude, to cover it.

Mr. DAWES (Cook). The distinguished gentleman from the 7th district says that he has conferred with two other members of the committee, and he said that was their understanding.

Mr. BARR (Will). I move you that section two be re-committed to the committee on revenue.

Mr. HAMILL (Cook). I suggest that this committee perhaps has not the power to re-commit, we can report it back to the Convention with the recommendation that it re-commit.

CHAIRMAN WHITMAN. That is the holding of the Chair, that the Committee of the Whole cannot re-commit.

Mr. BARR (Will). I intended to move that the committee when it reports to the Convention recommend that section 2 be re-committed.

(Motion adopted.)

Mr. SUTHERLAND (Cook). I suggest the secretary read section three.

(Section three read.)

Mr. SUTHERLAND (Cook). Section three is the section on exemptions and it differs very little from the present section on exemptions. The present section on exemptions reads:

(Section read.)

The present section offered here reads:

(Section three read.)

This is new in that it includes the incorporated society of war veterans, and industrial and trade organizations. Those were added to meet conditions which have arisen since 1870. The war veterans were anxious to be included and it was thought that if agricultural and horticultural societies were recognized with equal propriety industrial and trade organizations of the same character might be recognized, therefore the language is the same, as the present Constitution, property used but not for profit, for school, religious and charitable purposes, may be exempt from taxation by general law. It is not mandatory, or self-executory provision, but as is the present provision it is discretionary with the General Assembly to have the same narrow lines laid down. The last sentence is practically the same as the present section three.

Mr. RINAKER (Macoupin.) This is the same section that is referred to in the third paragraph from the last of section one; as reported by the committee, and as I believe, adopted, in which it is provided that in lieu of any property tax, and so on, there may be an income tax, and there shall be no exemptions therefrom except as provided in section three of this article. This is section three. How does this section exempt any income derived from anything, from taxation, if you use the words "not for profit", in the place where you insert that. In other words wouldn't you be compelled to tax the income on any invested charitable institution's funds?

Mr. SUTHERLAND (Cook). Now, Mr. Chairman, you are supposed, by law I believe, to tax the principal now, are you not?

Mr. RINAKER (Macoupin). Let that be so, where do you exempt any income in section three?

Mr. SUTHERLAND (Cook). I don't think in a case like that it was the thought of the committee that such income should be exempted. It has not been held that property held by educational and charitable or religious

institutions for income producing purposes could be exempted for taxation within the meaning of the section three of article nine.

Mr. RINAKER (Macoupin). Then what is the meaning of the language in the first section, that I referred to awhile ago, as to exemptions, except as provided in section three? Certainly there is no exemption of income provided for in section three. I would like to ask further whether or not this was a matter that was being considered by Mr. Gale and Mr. Dawes, as to a possible amendment of this section?

Mr. SUTHERLAND (Cook). I think it would have come up in that connection. I think the idea was, as I recall it, in putting in that phrase there would be no exemptions therefrom except as provided in section three, was simply to make it safe, and cover it; we were working rather hurriedly, the Convention was waiting upon us, and that sentence was put in there to prevent the five hundred and one thousand exemptions from applying, there was thought that possibly there might be something in section three that properly might apply, and if it did it would cover it in this way. If there was nothing that applies why no harm is done, and also if it is clear that nothing applies "except as provided in section three of this article" can come out. I think it might well be left in until the Committee on Phraseology and Style passes on it. If that committee will be patient with us for throwing the burden on them, I would be loathe to take that out, without further consideration.

Mr. MOORE (Macon). Inasmuch as sections two and three of this article were evidently prepared upon the assumption that section one would be adopted, as originally written in this proposal, I move that section three with section two be recommended to the Convention to be re-referred to the Committee on Revenue and Finance, in order to get the two sections in harmony.

Mr. SUTHERLAND (Cook). It seems to me that we can make faster progress by continuing this discussion of this section on the floor; it is not near so involved, so far as suggestions thus far have developed, as the questions involved in section two, and I have an amendment which I wish to present at the proper time, myself on this section. It is a matter which can be taken up and involves a matter of policy in which the committee is competent to pass at this time. It is not a matter of phraseology, it is strictly a matter of policy.

Mr. MOORE (Macon). I will withdraw my motion to re-refer this section in deference to the wishes of the gentleman from Cook.

Mr. SUTHERLAND (Cook). I make a motion to adopt section three.

Mr. TODD (Peoria). I would like to ask the committee if they think that the words "not for profit" exempt property from taxation which is owned by organizations which are not for profit, but which are loaning funds out at interest; in other words, suppose you have a society which has a large fund which is invested, say a million dollars, but which does not contemplate making any profit, would that be exempt under this provision?

Mr. SUTHERLAND (Cook). It was not so intended, Mr. Chairman, because I think it would be limited. No, I think that that would be properly used for profit, and it would not be exactly the same as for agricultural, horticultural, school, religious or charitable purposes.

Mr. TODD (Peoria). The income of it is used to maintain a charitable institution.

Mr. SUTHERLAND (Cook). That is true, but in the case of this building owned by a university, the income from the building, the rentals, are used for carrying on educational work, yet the building has distinctly been held to be taxable.

Mr. TODD (Peoria). That is the Chicago decision.

Mr. SUTHERLAND (Cook). That is a case arising in Chicago, and it would apply equally to a church, a cemetery or any other organization it would seem to me.

Mr. MILLER (Cook). That suggestion would however be an additional reason for taking out these words just referred to in section one; it might give rise to a different construction there.

Mr. SUTHERLAND (Cook). I think the delegate from Cook is probably right, and I may say in that connection the only reason I suggest this going to the attention of the Committee on Phraseology and Style is because one of the functions of that committee is to determine the relations between the various sections of the article and the various articles in the Constitution, and while perhaps we could do the job before hand, they would have to do it again anyway.

Mr. HAMILL (Cook). As chairman of the committee referred to, I wish to address myself very briefly to the pending motion. We have been discussing some rather technical questions on section two, and perhaps on section three, because it seems to me to possess some very fundamental questions of government which we must decide, and that is a question of whether we can, with adherence to sound principles, permit any exemptions from taxation.

I speak with some embarrassment because my convictions are radically opposed to my interests. I am a trustee of several charitable and educational institutions, and I am afraid if my fellow trustees could hear me they would feel I was untrue to my tribe, but gentlemen I believe it is unsound political doctrine to exempt any form of property from taxation, depending on the purpose for which it is used. We have in the proposed provision a change from the Constitution of 1870, an exemption. What happens? You start in permitting an exemption of this and that, and the good people who are interested in this and that come in and say to you, "You have let them off; why don't you let off our property." We are doing just as good work as they are. And you cannot tell where to draw the line. You are sure to perpetrate what will seem to some an injustice, and the real injustice comes about by reason of permitting any exemptions. I have said what I want to say.

Mr. TRAUTMANN (St. Clair). I would like to know what the committee meant when they used the words "industrial and trade organizations" especially with reference to the word "industrial."

Mr. SUTHERLAND (Cook). Well the first suggestion was that trade organizations, that is labor organizations ought to come in on the same basis as agricultural and horticultural societies, and it was thought that if they came in there was no reason on the other side why organizations which were organized for the same purpose, for the general good of their lines of industry should not have the same right. As the delegate from Cook has well pointed out; the door being open, we are shoving it now just a little further ajar, but only with reference to such organizations as are interested in promoting a general line of activities, and not in making profit for their individual members.

Mr. HAMILL (Cook). I would not be understood as interposing objections to exemptions for State activities; and other municipal corporations, but to impose a tax on them is just to take money from one pocket and put it in another. Government property is ordinarily exempt, but with the exception of that, I think all of the section after the word "State" in the second line should be stricken out. Mr. Chairman, I move that this section, section three, be amended by striking out all of it after the word "State" in the second line, and down to the word "may" in the fifth line.

Mr. SUTHERLAND (Cook). I will withhold my amendment until the motion of the delegate from Cook is voted on.

(Motion lost.)

Mr. SUTHERLAND (Cook). I move the amendment that I sent up to secretary's desk be adopted.

So it would read; property of the State, county and other municipal corporations of this State, and household furniture, to describe it briefly, owned and actually used by any person returning his or her income for taxation and paying such tax as may be levied thereon in accordance with law

Mr. TAFF (Fulton). Does that mean levied on household furniture itself?

Mr. SUTHERLAND (Cook). No, levied on the income.

Mr. SCANLAN (LaSalle). Does that mean that the individual who does not pay income must pay tax on his household goods?

Mr. SUTHERLAND (Cook). It means anybody who returns his income for taxation, and I take it under our proposal everybody would have to return his or her income for taxation. Every person who returns an income for taxation would be exempted from the household furniture tax. In short it means the General Assembly as soon as it enacts a general income tax law the farcical attempt to assess household furniture would be abandoned.

I regret exceedingly that this matter was forced to be taken up when there is a slender attendance; when the distinguished member from Cook, Mr. O'Brien, could not be here to present figures and defend the matter in a better way than I can. I feel very strongly about this. Had we left the provision in section one so that the General Assembly might in its discretion have left the provision for an income tax in lieu of tax upon personal property in the law, then this provision would not have been necessary. But, Mr. Chairman, it brings us squarely to a consideration of the reasons for an income tax. It has appeared by many years of experience that there are certain forms of property which it is idle and impossible to attempt to tax by valuation; household furniture is only one of a number of groups of such property, but it is a group which affects most citizens, and it is a group which produces the least amount of revenue. I wonder, Mr. Chairman, if the distinguished delegates realize that the total amount of household furniture returned for taxation including those items in the schedule, listed as watches and clocks, melodeons, organs, pianos and household and office furniture, sewing machines and knitting machines, total barely one per cent of the total value of assessed property in the State of Illinois. Now, Mr. Chairman, it is a fact that certain kind of property cannot be taxed by valuation. It is impractical to compel them so to pay. We have recognized by our action here that intangible valuations in general come within that description. There are tangible values which just as truly come within that description. Household furniture is one of them. It is an absolute necessity; yet what is its taxable value, Mr. Chairman? A man goes into a store and buys enough furniture to start housekeeping with; the day after the furniture is set up in his home what relation does its then value bear to the price which he paid for it, and when does he become a willing seller of that property; and when is there a willing purchaser therefor, Never. He does not sell that property until he has to; whoever buys it takes advantage of his necessity, therefore, Mr. Chairman, there is nothing fair about it; there is never a fair market basis for household furniture. Now, Mr. Chairman, in Cook county our attempt to tax household furniture is a joke. In the first place we have an exemption in the practice of the Assessors and Board of Review of \$300 to every individual, and we attempt to levy and collect taxes on no item less than that, and really, Mr. Chairman, it goes much higher because the County Attorney will not waste his time in suing and collecting taxable property of less than \$25.00 and that means the tax valuation is considerably in excess of \$300.00.

Now, I want to say that if an income tax law is enacted, I venture to predict that because of the cost of assessing the value of household furniture our assessors will say, "Oh, well, everybody is returning their income for taxation, we are not going through the farce of attempting to tax what little household furniture they have by value. What difference does it make?" And there won't be an effort to tax household furniture in the City of Chicago. I don't know what it is down State, but I know cities down State where it will be done, but there are cities down State who need money. Let me read you a comparison of figures in the amount of household property of the kinds I have described that are taxed in the State outside of Cook county, and in the County of Cook, and in the State outside of Cook; in the year 1919 the Tax Commission reports \$34,632,000 of household furniture of these classes assessed down State; in the County of Cook, how much? \$9,645,000 as against \$34,000,000 down State; and the kind of tax attached there is the kind of tax on the kitchen chair and the table and washing tub, and then of course the taxes in the homes of the five hundred millionaires in

Evanston—and such others as have escaped from the confines of Evanston, and living in the City of Chicago, of unproductive property, and at best is only an indication of the ability of the owner to pay taxes. I know in Cook county as a rule the assessor, when he steps into the house, the first question asked is, "Have you a piano?" and it is purely an indication of the amount a person might be expected to pay under our "By Guess and By Gorry" system of personal property taxation.

I maintain that when a citizen has returned his income for taxation, he is entitled to be free of the imposition of being required to pay in some instances, and not others, on his personal household furniture and therefore I sincerely hope that this amendment will be adopted.

Mr. HULL (Cook). This would have the effect of putting a premium on the return of an income?

Mr. SUTHERLAND (Cook). If it had any effect in that direction it would be to encourage the return rather than discourage it. My experience in the states where they have a State income tax is that they have to use the information in the Federal Tax Commissioner's report, so there will be a very full return of incomes for taxation in the State of Illinois, and this would have little or no effect.

Mr. KERRICK (McLean). Your amendment as I heard it read is to the effect that this exemption must be earned by the return of the income tax?

Mr. SUTHERLAND (Cook). Yes.

Mr. KERRICK (McLean). Only those who have sufficient means to have an income to make a return upon are favored with these exemptions?

Mr. SUTHERLAND (Cook). No, Mr. Chairman, I related that as carefully as I could, and if it does not meet my intention I will be glad to have it strengthened so it will, so that every person who returns an income for taxation, and who pays such tax as the law may require—if the law requires none—if his income is so small he is within the exemption clause he pays the required tax, which is none, and he should be entitled to this exemption; if his income is so small he does not come within the income tax it certainly should.

Mr. RINAKER (Macoupin). If I thought there was any danger of this amendment being adopted perhaps I would not have anything to say, but I think we would be making an inexcusable mistake to put any such clause as this in the Constitution. An income tax as it is popularly known is something that is paid by rich people, and when you put this clause in the Constitution and our friends, the enemies of the Constitution jump onto it, they will tell the people of this State that every fellow who makes an income tax return does not have to pay any personal property tax, or any tax on his household furniture—and most of the people of the State who pay taxes on their personal property will read that and construe that to mean the rich people pay no taxes on their household furniture, and the poor fellow who does not earn enough to make an income tax return has to pay on his household furniture. They will get that idea and you won't get a hill-billy, or a washerwoman, or any of the common people, or any of my friend Morris' colored people, who are poor, as many of them are, you won't get one of them within one hundred miles of ratifying your Constitution. It is a mistake; and I cannot understand how the Cook county people manage their taxes up there, and how in the world you can have the cheek to come down here and ask the legislature to help you make more money when you make such ridiculous returns as shown by the figures the gentleman just read. I know what he said about it is true that they do not pretend to collect household taxes up there; we do down in the country; we have to have it. It helps to pay the taxes. Here you propose to take it out, with a refinement in there that we understand but that the common people won't understand, except that the rich fellow who pays the income tax is exempt on his household and kitchen furniture tax, but every other fellow has to pay. I hope the amendment will not be adopted. It will be extremely unwise.

Mr. CRUDEN (Cook). Mr. Chairman, I was delighted to hear the plea made by Delegate Sutherland for this exemption, because I thought it

was entirely in harmony with a proposal that I had presented to the Revenue Committee last winter. Then my attention was called to a statement by the late Theodore Roosevelt before the General Assembly at Albany in which he advocated an exemption of one thousand dollars, and made the statement that it seemed unfair to penalize the average working man who brought into his home a piano or something of that sort, for the education of his children—I think this amendment of Mr. Sutherland's covers that question now. There may be some doubt about it from what Delegate Rinaker says, and I wish it could be arranged to cover the proposition which I made. I think Mr. Sutherland was in harmony with the idea.

Mr. MORRIS (Cook). However I may be inclined to disagree with some of my brother delegates it does strike me that this provision would be one of the popular provisions in the Constitution. The language I think is not quite as apt and as full as might be desired, and if we would say straight out "household furniture shall be exempt," or "may be exempt by legislative exemption" it would be better. I remember the years of experience that I had in the office of the county attorney in charge of tax matters, and town attorney, and it led me to the conclusion it was just folly to undertake to collect taxes on household furniture, and \$15, \$20 and \$25 was stricken off the books time after time, and that is all there was to it. We made no effort to collect it. I would recommend that we just put it down as a loss. You could not collect it. The assessors comes to the house, and if he reaches the conclusion as to your wealth from the furniture you got, the fairly poor man is oftentimes represented as having a good deal more than the individual who lives in hotels and other places, and owns practically no furniture—he looks around and says two hundred or three hundred or five hundred dollars, and when he finally gets through and the taxpayer comes over to the county treasurer and is referred to the county attorney in charge of tax matters, you cannot do anything. Oftentimes all of the furniture that has been assessed has since been taken by the man who sold it. The result is you say "uncollectible." If you send a deputy out to levy why there is nothing to levy on, unless you take the children, the baby crib and the piano that he has been buying on time, and paying five hundred dollars for, and if you tried to sell it in the open market you would not get fifty dollars for. I can sell you more pianos than you can pile up in this House of Representatives for twenty-five, thirty or forty dollars—they wear out before they are paid for. We might just as well understand the situation exactly as it is. Very few men in all of Cook county—and my experience of course is limited to the City of Chicago, embracing the Cook county part of it—pay any personal property tax on household furniture. I recall a very very prominent millionaire who lived almost in the same precinct with me, he was assessed sixteen dollars and I was assessed twenty-six dollars, and we struck them both off. But we know if we don't do it now it would be encouragement to a man to say I am not going to be obliged to pay on this non-producing property, on the same principle you have exempted the various properties belonging to charitable and other institutions on the ground that they produce nothing. A man's household furniture is not worth one-third what he pays for it fifteen minutes after he buys it, and gets it in the house; it is almost like a suit of clothes—you walk around the street in it and then go back and say how much is it worth, and if it costs \$75.00 it is worth \$3.50 to the old clothes man. You may think you are dressed up; you are to the extent of \$3.50 if you want to sell it. So it is with the piano, organ and other things.

You assume everybody is required to make a tax return, why not say "household furniture shall be exempt."

Mr. SUTHERLAND (Cook). I have no objection to making it a straight exemption.

Mr. HULL (Cook). Household furniture in use?

Mr. MORRIS (Cook). Household furniture actually in use, as such, to the extent of one thousand dollars in value, may be exempted.

CHAIRMAN WHITMAN. You have heard the amendment to the amendment. What is your pleasure?

(Adopted.)

Mr. SCANLAN (LaSalle). I move we now rise and report progress and ask leave to sit again.

(Adopted.)

Adjournment until eight o'clock Monday, November 15th, 1920.

8:00 o'clock P. M.

Committee of the Whole met pursuant to recess.

(Delegate Whitman in the Chair; report of the Committee on Revenue, Taxation and Finance under consideration; section three).

Mr. WALL (Pulaski). As one who voted for the amendment to the amendment of the gentleman from Cook, I move to reconsider the vote, to make it five hundred dollars instead of one thousand dollars. I want to say on reflection during the dinner hour I decided there would not be a solitary human being in my senatorial district that would pay one dollar on household furniture if we make this exemption one thousand dollars. There probably would be one in fifty if we make it five hundred. It is a source, in the country districts of the State of revenue; we do tax household furniture down there. I would say that not one-third of the persons who live in my county and possibly in my senatorial district own any property except household furniture, and the income that they derive from it will be exempted under the liberal exemptions allowed, so that they escape taxation entirely. It may be that there are places where this item does not amount to much—Chicago has been cited here—but it does amount to a great deal down there, and on the political theory on which it is based, and it can be based on no other, it would be more favorable I think if we made it five hundred dollars, instead of one thousand dollars. Because the man who owns one thousand dollars of household furniture is pretty well to do, and pays considerable taxes and it is not a hardship to pay on household furniture; and those who own five hundred dollars and less of household furniture, is that great body of the citizenry of the State that exist by the work of their hands, largely, and it is that class that would be the support of this Constitution if we made it five hundred dollars instead of one thousand. I don't want to repeat, or go into the details of an argument or anything of that kind, but I do think we ought not to exempt private family household furniture all over the State from taxation and I therefore make this motion to reconsider, with a view of following it with a substitute for five hundred dollars instead of one thousand.

Mr. SUTHERLAND (Cook). The exemption provision which you refer to as liberal in section one provides, that if a man not the head of a family makes less than one thousand dollars he may be granted an exemption on his income of not to exceed five hundred dollars. If he is the head of a family and his total income does not exceed two thousand dollars he may be granted an exemption not to exceed one thousand dollars. Are there a majority of the constituents who being single earn less than one thousand dollars a year?

Mr. WALL (Pulaski). I think in answer to that I can say sincerely there is no question but what a large majority of the industrial workers who work in wooden plants, and that is all we have down there that amounts to anything to employ a considerable number of men, the average wage is three dollars and a half a day. It would hardly make one thousand dollars.

(Adopted.)

CHAIRMAN WHITMAN. The question now is on the pending motion to exempt one thousand dollars worth of household furniture.

Mr. WALL (Pulaski). I move you Mr. Chairman that the words "one thousand" be changed to "five hundred."

Mr. SUTHERLAND (Cook). I hope that this amendment will not prevail. If we were wise we would take the limit off altogether because in almost every territory you are getting less revenue out of this source of tax-

ation than the cost of sending the assessor around to inspect the household furniture.

Mr. CRUDEN (Cook). In view of the fact that Delegate Morris, who so ably advocated this, is not present, I think it is rather unfair to act this way in his absence; we ought to stop at this part of the procedure.

CHAIRMAN WHITMAN. I don't think this Convention ought to stop because one man is not present.

Mr. WALL (Pulaski). I would say that Delegate Morris said to me on leaving the hall this afternoon at the recess, that he thought one thousand dollars was too much. I think if he was here he would be very glad to vote for this amendment.

(Amendment adopted.)

Mr. CRUDEN (Cook). I have an amendment that I wish to offer to section three at this time. Notwithstanding the fact that I said some time ago that I had great confidence in the delegate who is chairman of the Committee on Phraseology and Style, this evening I differ with him, and I feel more inclined to the belief that Judge Wall holds for religious property. I offer therefore this amendment for the exemption of parsonages. Without taking too much time, I would like to call your attention to what was advocated by Lincoln, Washington and a great many other great men, who said that the churches should be encouraged in this country. There was a time when parsonages in connection with other church property was exempted from taxation, until it was brought before the Supreme Court, when it was decided it did not come within the provisions of the Constitution.

I don't want to burden the Convention with long speeches. I don't believe I have great influence with the delegates, and I don't want to bother the clerks a long time, so I will just leave it in your hands.

AMENDMENT No. 15.

Amend Section 3 of Proposal No. 378 by adding after the word "purposes" in line 5 the following, to-wit.: Including parsonages owned and occupied as such by religious organizations, entitled to exemptions under this section.

Mr. MILLER (Cook). Does that include the home occupied by a Christian Science reader?

Mr. CRUDEN (Cook). If their property is exempted under the Constitution.

(Amendment adopted.)

Mr. HAMILL (Cook). I have an amendment that I desire to offer to section three.

AMENDMENT No. 16.

Amend Section 3 in line 4 by striking out the words "industrial and trade organizations."

Mr. WALL (Pulaski). For my information I would like to have some of the committee explain what they mean.

Mr. HAMILL (Cook). I have moved to strike out; I don't think I can be called on to explain what the words mean. I don't know what they mean, but whatever they mean I am against them.

Mr. BARR (Will). I don't think it is necessary to explain what they mean. I am inclined to think that the chairman of the Committee on Phraseology and Style knows what they mean, and therefore his amendment. In the Committee on Revenue there was considerable discussion as to whether or not some of the organizations whose property might be exempted under the Constitution of 1870 should be stricken from the new Constitution or rather should not be included. Several references were made to the property of agricultural and horticultural societies, and organizations pertaining to a particular line of business; agricultural societies of course, organizations of farmers, are deserving of the highest consideration of the

Convention, and it was suggested in that committee that organizations of trade, trade organizations, and also organizations of men who were interested in the development and improvement of their particular occupations and the improvement of conditions, and the development of the State's wealth along those lines, and these organizations which were not for profit at all, should also be exempt.

Mr. MILLER (Cook). Would that include the Coal Operators' Association?

Mr. BARR (Will). Probably not, even the Bar Association would be out of accord with that same basis of reasoning, and the Revenue Committee made a compromise, by including the trade organizations and it was suggested a trade organization should be exempt, and an industrial organization should be exempt, so we voted that they be all included, as a compromise. Now as far as I am concerned that is the only explanation I know of that the committee can give for its majority report, insofar as those two organizations are concerned.

Mr. HULL (Cook). If trade and industrial organizations were stricken out, agricultural and horticultural organizations should be stricken out, too?

Mr. BARR (Will). I would not like to pass on that. The committee did not vote on the question of one or the other.

Mr. HAMILL (Cook). Was there any reason given why if one was kept out the other should be kept out too?

Mr. BARR (Will). There didn't seem to be any one urging to keep out any particular one of them, and as I said a minute ago it was purely the result of a compromise, and there was not any very convincing reason why any of them should have remained in insofar as my view of the arguments was concerned.

Mr. WALL (Pulaski). Would the delegate give us examples of what he would call industrial and trade organizations?

Mr. BARR (Will). I presume that the Coal Operators' organization would perhaps be an industrial organization.

Mr. MILLER (Cook). The Retail Lumber Dealers' Association?

Mr. BARR (Will). Undoubtedly.

Mr. HAMMILL (Cook). The Association of Commerce?

Mr. BARR (Will). I assume that a trade union would be a trade organization.

Mr. WALL (Pulaski). Would the Board of Trade or a Business Man's Club be an industrial organization?

Mr. BARR (Will). It was not considered that they would come within the description of industrial organizations.

(Amendment adopted.)

Mr. HAMILL (Cook). I have another amendment I wish to offer.

(Amendment read.)

AMENDMENT No. 17.

Amend Section 3 in line 3 by striking out the words "agricultural and horticultural societies."

(Amendment lost.)

Mr. HAMILL (Cook). I have another amendment that I wish to offer.

AMENDMENT No. 18.

Amend Section 3 in lines 4 and 5 by striking out the words "and for incorporated societies of war veterans."

(Amendment lost.)

Mr. HAMILL (Cook). I have another amendment that I wish to offer.

AMENDMENT No. 19.

Amend Section 3 in line 4 by striking out the word "religious."

(Amendment lost.)

Mr. HAMILL (Cook). I have another amendment I desire to offer.

AMENDMENT No. 20.

Amend Section 3 in line 5 by striking out the word "cemetery."
(Amendment lost.)

Mr. HAMILL (Cook). I have another amendment that I desire to offer.

AMENDMENT No. 21.

Amend Section 3 in line 5 by striking out the word "charitable."
(Amendment lost.)

Mr. HAMILL (Cook). I have another amendment that I desire to offer.

AMENDMENT No. 22.

Amend Section 3 in line 5 by inserting after the word "purposes" "and corporations not for pecuniary profit whose object is the advancement of musical culture."

Mr. HAMILL (Cook). Gentlemen of the committee, I have conscientiously striven to get rid of all exemptions. With what success you know. I have been for many years an officer and trustee of the Orchestral Association in Chicago, which maintains the Chicago Symphony Orchestra. It is a corporation not for pecuniary profit; it is supported by the income from investments made out of the proceeds of donations by generous public-spirited men who have given for its support. It has property worth something over one million dollars, and the income from it maintains the Chicago Symphony Orchestra, which we believe to be the finest orchestra in the country, and it is more for the advancement of musical culture than perhaps any other organization in the State. It is purely educational in its purpose, and cannot make any money. It is maintained by those of us who are interested because we believe a community is infinitely better when it has the best of music at prices which bring it within the ability of the poorest people to hear it. It tries to serve in the musical field just what the Art Institute does in the pictorial field; just what the universities do in the educational field; just what the hospitals do in the medical field; as I have said before it does not and cannot make money or any profit. It is in existence only because of its supposed, and I believe, real benefit to the community. Now, if we believe that all institutions which exist generously and disinterestedly for the benefit of the communities in which they function should not be subject to taxation, because they are supported by gifts, and their property is devoted to the uplift of the community, then I submit that the property of this institution should be just as free from taxation as any school or university or art institute or hospital or church. It is doing for the people just what those institutions are supposed to do. I told you frankly I am personally interested in it. I don't believe in exemptions, but I believe we should be reasonably consistent. If we are going to permit any exemption it should be full and for all non-profit making institutions of that sort.

Mr. LINDLY (Bond). Do I understand you to say it had one million dollars of property, and the income kept up the organization?

Mr. HAMILL (Cook). Yes.

Mr. LINDLY (Bond). Personal property or real property?

Mr. HAMILL (Cook). Mostly real property.

Mr. LINDLY (Bond). I don't think it compares with the rest of the organizations we have been talking about.

Mr. HAMILL (Cook). Hospitals don't pay on real property; churches don't pay on real property.

(Amendment lost.)

Mr. JACK (Fulton). I voted in the affirmative on the motion to strike out the words in the fourth line, "industrial and trade organizations," and since listening to further discussion on this subject of exemptions and the reasons for exempting, I desire now to make a motion that the vote by which those words were stricken out be reconsidered.

(Adopted.)

CHAIRMAN WHITMAN. The question before the house is the motion to strike out the words "trades and industrial organizations."

Mr. DUPUY (Cook). I would like to ask for a division of the question now pending. This covers two separate and distinct things; one is industrial and the other is trade organizations, and I would like the vote to be taken separately, and I believe it is within the rules that that be done.

CHAIRMAN WHITMAN. The gentleman has a right to ask for that; we will vote first on the industrial.

(Carried.)

CHAIRMAN WHITMAN. We will now vote on the question of trade organizations. So many as are in favor of striking out the words "trade organizations" says aye.

(Carried.)

CHAIRMAN WHITMAN. The question now is on the adoption of section three.

Mr. DUPUY (Cook). I wish to offer an amendment.

AMENDMENT No. 23.

Amend Section 3 by adding in line 6 after the word "law" the following: "The General Assembly shall by law define what organizations and societies fall with the classes above named."

Mr. SUTERLAND (Cook). I don't see the advantage of adding those words. The General Assembly now under the language proposed may choose among these organizations what ones and under what conditions the ones they select may be exempted from taxation, and what property may be exempted. I think the words add nothing to the power of the General Assembly under this section, and I do not think that they should be used.

(Motion lost.)

Mr. SCANLAN (LaSalle). I have an amendment that I would like to offer; by inserting after the word "be" in the second line the words "owned and."

(Amendment carried.)

Mr. SUTHERLAND (Cook). I offer the following amendment: Amend section three in line three by substituting for the word "for" after the word "exclusively" the word "by"; and by substituting for the word "for" before the word "incorporated" in the same line the word "by"; and by inserting before the word "for" after the word "organizations" in line four the word "and."

Mr. MILLER (Cook). Why would the gentleman from Cook require this property to be owned by agricultural, horticultural societies, and war veterans, and not by schools, religious institutions and cemeteries?

Mr. SUTHERLAND (Cook). It could not be otherwise because the language is not adapted to it. I think it is an unfair question, Mr. Chairman.

Mr. MILLER (Cook). I don't see why we should be governed by our language instead of by our intentions. I think it should be the other way around.

Mr. SUTHERLAND (Cook). I think possibly the amendment is not necessary in view of the long line of adjudications on this section.

(Amendment adopted.)

Mr. RINAKER (Macoupin). I asked the question a while ago in what sense the word "profit" was used. That was a new expression introduced into this section, and in order that there might be some definite understanding as to what is meant by the words "but not for profit," I move to strike out of line two, the word "profit," and insert in lieu thereof the word "income."

(Motion lost.)

CHAIRMAN WHITMAN. The question is now on the adoption of section three with amendments.

Mr. DOVE (Shelby). As a substitute for section three as amended, I wish to offer the following:

The property of the State, counties and other municipal corporations both real and personal, household furniture actually in use as such to the extent of five hundred dollars in value, and such other property as may be used exclusively for agricultural, and horticultural societies, for incorporated societies of war veterans, for school, religious, cemetery and charitable purposes including parsonages owned and occupied as such by religious organizations entitled to exemptions under this section, may be exempted from taxation, but such exemptions shall be only by general law. In the assessment of real estate incumbered by public easement any depreciation occasioned by such easement may be deducted in the valuation of such property.

Mr. DOVE (Shelby). This is exactly in the same language as the old Constitution with the exception of the three amendments as carried. The language of the substitute follows the exact language of the old Constitution, with the exception that it provides that the property of incorporated societies, of war veterans, and parsonages, household goods up to the value of five hundred dollars may be exempted by general law. I have followed the course of this debate this afternoon and evening, and I think these are the only three amendments that have carried. The purpose of this substitute is to preserve the language of the old Constitution. I have been heartily in favor of everything that has been said with reference to the preserving of the language of the old Constitution, and I think by adopting this substitute for section three, as amended, that object will be attained.

(Amendment adopted.)

Mr. HAMILL (Cook). May I inquire of one of the members of the committee why it was thought necessary to say that the real estate incumbered by public easement, any depreciation necessitated by such easement may be deducted.

Mr. SUTHERLAND (Cook). That language was discussed by the committee, and the committee was of the opinion it was undesirable to change the language of the present Constitution unless there appeared some definite reason for doing so, and to change it might disturb existing conditions of which we knew nothing, and therefore, Mr. Chairman, we decided to leave that language in.

Mr. HAMILL (Cook). That gives a perfectly good stock reason; but was the committee of the opinion that this sentence added any power to the General Assembly, which it did not otherwise have?

Mr. SUTHERLAND (Cook). No, Mr. Chairman, it did not so consider it. It thought it might possibly be a limitation on the powers of the General Assembly, because this whole section by inference is a limitation because it specifies what can be done.

Mr. HAMILL (Cook). May I inquire what limitation is supposed to be inferred from this last sentence?

Mr. SUTHERLAND (Cook). I don't know what might arise; no one had imagination enough to see, but it was simply thought that it was unwise to depart from language that had stood in the Constitution for many years unless there was some definite reason for doing it.

Mr. MOORE (Macon). I have an amendment that I would like to offer; after the word "general law" in the first sentence insert the words "but no property of any school, college or university in which doctrines tending to subvert the Constitution of the United States or the Constitution of the State of Illinois, are taught, shall enjoy any exemption from taxation."

Now the object of this amendment is not to regulate what shall be taught in the schools, but it has come to my knowledge that there are certain schools and colleges in the State of Illinois that are teaching that the Constitution of the United States, and therefore the Constitution of the State of Illinois, as it is hoped it will be, is out of date, and the checks and balances and the Bill of Rights, of the United States, should be abolished, and we should turn over the whole system of government to socialistic and other foolish propositions. Let them teach them all they want to, but in offering an exemption of their property from taxation the State of Illinois is offering a premium to the teaching doctrines that ought not to be per-

mitted, or at least ought not to be included in that way, and I move the adoption of this amendment.

Mr. HULL (Cook). I think, however willing we may be, that that will be a serious mistake, preventing by such means as suggested in this amendment any progressive discussion. Certainly we have not reached the last word in constitutional development in this country or in this State. Discussion in academic circles or anywhere ought not to be limited in the Constitution. We are here because of agitations of that kind. They may be conducted in educational constitutions or any other kind of constitutions, so long as they are conducted in an orderly and proper way, and so long as free discussion is given to all, I think it is a very serious mistake.

Mr. MOORE (Macon). As I said before there is not any attempt to dictate what shall be taught. There is no penalty to be imposed. There is to be no restriction. It is simply that I for one object to the State of Illinois exempting from taxation the property of an institution or school or university, or whatever it may be called, that teaches a doctrine subversive to the Constitution of the United States.

(Amendment lost.)

Mr. BARR (Will). I move you an amendment by inserting a phrase in the second line, as it appears in the old Constitution, so that the first two lines will read "the property of the State, counties and other municipal corporations of this State." My reason for offering this amendment is it is a part of the report of the committee, and consequently I think I can conceive a possible condition that might make it essential that municipalities whose property might be exempt from taxation should be only municipalities of the State of Illinois.

It might be possible that property, part of which at least would be within the State boundaries, might belong to municipal corporations which were not municipal corporations of the State of Illinois.

Mr. HAMILL (Cook). The very gentleman who offered this amendment spoke to me about this and I was of his opinion until there was out in my hands a very recent opinion of the Supreme Court, *People ex rel. Murray*, against the City of St. Louis, involving the right to tax the St. Louis bridge; and the right to have it exempted was urged under this present section.

(Decision read.)

CHAIRMAN WHITMAN. What is your further pleasure?

Mr. HAMILL (Cook). They held under this section it is not property of this municipal corporation, so that that would seem obviate the necessity of this amendment?

CHAIRMAN WHITMAN. Do you withdraw your amendment?

Mr. BARR (Will). I don't want to withdraw the amendment, but that does seem to remove it from this particular situation; at least, the one I have in mind. I don't know that this language covers it. There may be corporations, municipal corporations, which own property that it is not contemplated that the legislature should have the power to exempt from taxation. I rather had the impression in reading this section that the language, municipal corporations of this State, limited those municipal corporations to cities, villages and counties and municipal corporations of that character, and perhaps did not extend to municipal corporations that were creatures of the legislature. I have in mind particularly at this time the municipal corporation known as the Sanitary District of Chicago whose property outside of its municipal territory is subject to taxation, and is being taxed; now as to whether or not this provision would cover that particular class of municipal property I am not clear at this time, but I do believe it was the intention of the committee to limit particularly the municipal corporations whose property might be exempt from taxation to those particular geographical or municipal divisions of the State government which are ordinarily recognized as the counties, and the cities and towns, and for that reason in order to limit that particularly, I prefer the amendment receive the vote of the committee; I think it ought to go into the Constitution in that shape.

Mr. HAMILL (Cook). In his same opinion to which I just referred there is a reference to the case of the Sanitary District against Young in

the 285th, where it was held that the property of the Sanitary District was not exempt under this section. That would seem to cover the other point the gentleman had in mind.

(Amendment lost.)

Mr. SUTHERLAND (Cook). I move the adoption of section three as amended, as section three of the revenue article of the new Constitution.

(Section adopted.)

Mr. SUTHERLAND (Cook). I move that the committee do now rise and report progress, and ask leave to sit again.

(Motion adopted.)

President Woodward in the chair.

Mr. WHITMAN (Boone). The Committee of the Whole, sitting in consideration of the report of the Committee on Revenue, beg leave to report that they recommend that section two of the minority report be recommitted to the Committee on Revenue and also report progress, and ask leave to sit again; and recommend that section three as reported and amended by the committee be section three of the revenue article of the new Constitution.

(Adopted.)

Mr. HAMILL (Cook). I move that this Convention do now adjourn until nine o'clock tomorrow morning.

Adjournment to Tuesday, November 16th, A. D., 1920, at nine o'clock A. M.

TUESDAY, NOVEMBER 16, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The journal of Friday, November 12th, was placed on the desk of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Friday, November 12th, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction, first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

THE PRESIDENT. The Convention will now resolve itself into a Committee of the Whole for the purpose of further considering the report of the Committee on Revenue, Taxation and Finance. Delegate Whitman is designated to act as chairman of the Committee of the Whole.

CHAIRMAN WHITMAN. The committee will please come to order. The clerk will read section four of the majority report of the Committee on Revenue now under consideration.

(Section read.)

Mr. HAMILL (Cook). Mr. Chairman, may I inquire of some member of the committee what there is in this section which is not legislative?

CHAIRMAN WHITMAN. I have not heard a motion as to the adoption of this section.

Mr. DAVIS (Cook). Mr. Chairman, I move this section be adopted.

CHAIRMAN WHITMAN. Delegate Davis moves that this section be adopted.

Mr. DAVIS (Cook). The committee in drafting this section studied the provisions of sections four and five of the Constitution of 1870 very closely. An examination of those two sections will disclose the fact that when that Constitution was drawn the matter was covered to some extent along legislative lines. The examination of the cases of our Supreme Court will disclose the further fact that these two sections have been construed on a number of occasions, particularly because the legislature in enacting a statute dealing with the subject, has followed the language of the Constitution.

The matter of enforcing liens against real property, and at the same time protecting the rights of the original owner, has always been considered one of tremendous importance, not only because questions affecting land have always been held more sacred than questions of other property rights, but particularly because so frequently they involved the rights of the owner of a homestead.

The committee felt that it might well follow along general lines the attitude of the Convention of 1870 and cover by a constitutional provision the procedure regarding the rights of the owner of the property against which the lien was created, and so section 4 of the committee's report is a combination of sections 4 and 5 of the Constitution of 1870.

Section 4 of the Constitution of 1870 has been incorporated in toto in section 4 of the report, with the only exception of designating the county treasurer as the officer to whom the return shall be made. The Constitution of 1870 called for the officer having authority to receive state and

county taxes. So that the words "county treasurer" were substituted for that. And then all of section 5 was incorporated. The only difference in the new section is that the proviso in section 5 of the old Constitution, calling for serving of notice to all the occupants of property, has been eliminated, and this has been added, "that the General Assembly may provide for the foreclosure in equity of the lien of such taxes and assessments hereafter created."

Now, let me say a word along practical lines. In all counties, and particularly Cook county, it was found that the most effective means of making people pay taxes on real estate was the operation of the law which subjected their property to a sale by an order of court if taxes were not paid. It has worked successfully in Cook county, and in the other counties of the State—until recently—for there were a number of people who are not at all in good repute with the general community, known as the tax buyers or tax sharks, who appeared at those sales and bid in the property, ordinarily for the amount of the taxes, plus such penalties as the law imposed.

When the legislature at one of its recent sessions, I think it was two years ago, changed the law reducing the penalty to a small rate of interest, all these men who had been in the habit of buying property at tax sales stopped buying. The result is that at the present time there are hundreds of thousands of dollars' worth in taxes uncollected and without any means of enforcing the payment of those taxes. Of course, when there is no one offering to buy at the sale, the property is forfeited to the State. That does not produce any revenue. The taxes remain unpaid. There is a cloud on the title. Neither the State nor any of the political subdivisions thereof receive any benefit from that particular sort of an operation.

A number of figures have been given to us, coming from all different parts of the State. We have heard considerable testimony bearing on this phase of the situation, and it was the opinion of every member of the committee that as long as the Constitution is dealing with the general subject of sales of property for taxes and the rights for redemption, that that matter ought to be covered more fully and a provision made as to the procedure which ought to take place when the property is not actually sold after its being advertised for sale for non-payment of taxes.

Now, we all know that even in the case where the property is sold for taxes and a deed is issued, our Supreme Court has refused to recognize that sort of a title. Further litigation was required and without results ordinarily, so that the effect of a sale was not really to rest the title in the purchaser, but to create a cloud upon the title of the original owner. In order to accomplish two things, produce the taxes and give a good title to the purchaser, and at the same time protect the rights of the original owner of the property, we felt that this sentence which I have read, and the following sentence, should be inserted in our draft in order to present, as a matter of fact, a complete piece of machinery.

It has been stated to us before the committee that any attempt before the legislature to bring about any modification of the present statutes has not produced any results, not only because of the difficulties of the situation, but because the answer of the legislature has been that the matter has been covered quite fully by the Constitution; that the legislature has taken from that that the Convention of 1870 has laid down the limits to which it expected the legislature to go in dealing with the subject, and it seemed to us as though we ought not to stop short in the way in which the Convention of 1870 had done, but to complete the job and present to the legislature a complete piece of machinery with which to handle the matter of the sale of property for taxes, the matter of providing means whereby the purchaser may secure a good title, and also offering protection to the original owner of the property. It is for this reason that section 4 seems to have the appearance of a legislative piece of work.

Mr. HAMILL (Cook). Mr. Chairman, it seems to me that in the very complete answer given to my question there is included a very complete argument against the adoption of these sections. The gentleman from Cook county, answering my question, says that the General Assembly has failed to provide proper legislation for the collection of taxes upon the plea that the Constitution itself furnishes the machinery. That excuse should be removed. The obligation of devising the appropriate machinery for collecting taxes should rest upon the General Assembly and should not be assumed in the Constitution. We cannot foresee all possible emergencies that will arise during the life of this Constitution. The administrative, procedural requirements for the enforcement of laws are the most appropriate subjects for legislation, and the most inappropriate for constitutional treatment.

Mr. KERRICK (McLean). Mr. Hamill, if you will read the last clause of this section 4, you will see that it will be left with the legislature to take care of anything that may arise.

Mr. HAMILL (Cook). My dear sir, you are trying to confer power upon omnipotence by that section. The General Assembly has the power, and that sentence means nothing. It does not obviate the criticism that I make, because it does not confer any power. The power is there. The General Assembly has not refused to pass the particular legislation, because it had not the power, but because it said the Constitution has undertaken to do this, and we just won't do anything more.

Mr. DAVIS (Cook). The particular reason for having inserted at the end of the section the words that "the General Assembly shall not be precluded from providing by law such other means for enforcing payment of taxes and assessments, delinquent and otherwise, as it may see fit," was necessitated by the fact that specific means have been provided.

Mr. SUTHERLAND (Cook). Mr. Chairman, it seems to me that section 4 does something more than confer power upon omnipotence. It seems to me that sections 4 and 5 have been made a limitation guaranteeing two things to the owner of property: First, a period of redemption; second, the assurance that his property, if sold for taxes, could only be sold by a single authority, and that when he came to checking up on the status of his property, he would not have to chase around through the offices of various city and local collectors of taxes, but to go to the one central authority of the county. Those two guarantees are continuing, and in order that the continuance of those guarantees should not be construed as limiting the power of the General Assembly in other respects the last sentence was added, which gives to the General Assembly full power except as to those two limitations, as the committee understands it.

Mr. DEYOUNG (Cook). Mr. Chairman, may I ask the gentleman from Cook who spoke last one or two questions about this section? You say that under the present section 4 the property owner has the guaranty of a sale by a single officer?

Mr. SUTHERLAND (Cook). Yes, sir.

Mr. DEYOUNG (Cook). Wherein does that differ from the provision in the present Constitution, which requires the return to be made to some general officers of the county?

Mr. SUTHERLAND (Cook). I tried to say, Mr. Chairman, that that limitation was continuing.

Mr. DEYOUNG (Cook). Now it is made specific. Before, the legislature might in the progress of time see fit to confer it upon some other officer than the county treasurer. There might be good reasons. So you narrow it down now, and I don't think you improve it.

Mr. SUTHERLAND (Cook). Mr. Chairman, we have simply made this in conformity with the county article. The general officer to whom returns of taxes are made has been the county treasurer. Now, the county article provides that the county treasurer shall be ex-officio collector of taxes for the county. Therefore, we are simply conforming with the county article and are not changing the situation, and inasmuch as the county article creates the county treasurer ex-officio collector of taxes, it seems to me it

would be improper to provide that any other officer might sell property for taxes.

Mr. DEYOUNG (Cook). Well, the matter then is, in substance, just as it is now?

Mr. SUTHERLAND (Cook). Just as it is now.

Mr. DEYOUNG (Cook). Now, let me ask you about that second paragraph of your proposed section 5. You cut off the right of redemption altogether, do you not, in foreclosure of tax sales, in line 18?

Mr. SUTHERLAND (Cook). I would like, Mr. Chairman, to have that question answered by the distinguished delegate from Cook county.

Mr. DAVIS (Cook). It follows the words of the present Constitution.

Mr. DEYOUNG (Cook). Not at all. You cut it off in the case of a foreclosure.

Mr. DAVIS (Cook). Section 5 of the present Constitution reads: "The right of redemption from all sales of real estate, for the non-payment of taxes or special assessments of any character, whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof."

Mr. DEYOUNG (Cook). Yes. Now, in the latter half of line 18 of your proposal you cut off the right of redemption in case of foreclosure in equity. That right now exists.

Mr. DAVIS (Cook). I do not get the words to which you refer, Mr. DeYoung.

Mr. DEYOUNG (Cook). Line 18, page 3. Section 4 of the pending proposal, page 3, line 18, you have a provision beginning in the middle of line 18 and ending in line 19, "except in case of foreclosure in equity as above provided."

Mr. DAVIS (Cook). Yes. Well, the reason why the words were provided, "except in case of foreclosure in equity as above provided," is that at the end of the first sentence of section 4 there were added these words: "The General Assembly may provide for the foreclosure in equity of the lien of such taxes or assessments hereafter created," and if the General Assembly does provide under that sort of a foreclosure in equity, the rights of the original owner would be in court in that particular proceeding.

Mr. DEYOUNG (Cook). Precisely, but the right of redemption today exists in that sort of proceeding.

Mr. DAVIS (Cook). Yes.

Mr. DEYOUNG (Cook). And you propose to cut it off. We have had many of those tax foreclosures in Cook county, but the right of redemption exists. Now you propose to make this just exactly as the sale in a partition suit?

Mr. DAVIS (Cook). Yes.

Mr. DEYOUNG (Cook). The sale occurs, and the deed issues forthwith without right of redemption.

Mr. DAVIS (Cook). Yes.

Mr. DEYOUNG (Cook). Do you think the right of redemption in a case like that ought to be cut off?

Mr. DAVIS (Cook). I don't think the situation would suffer much if you eliminate that. Those words have been put in there to correspond with the provision above, giving the General Assembly the right to provide for foreclosure in equity.

Mr. DEYOUNG (Cook). We have them right now. The remedy exists and it is availed of almost—I won't say every day, but it is a very common proceeding.

Mr. DAVIS (Cook). A foreclosure in equity on the lien created by the tax sale?

Mr. DEYOUNG (Cook). Why, yes.

Mr. DAVIS (Cook). Where would you get on that—anywhere?

Mr. DEYOUNG (Cook). Why, you would get a deed finally, when the right of redemption expired. We have had hundreds of those.

Mr. DAVIS (Cook). In the case of a tax sale?

Mr. DEYOUNG (Cook). Yes.

Mr. DAVIS (Cook). You have gotten good title?

Mr. DEYOUNG (Cook). Well, there may be other reasons why the title might not be good.

Mr. DAVIS (Cook). I am not trying to make a legal argument. I am trying to present the effect of the result in the last analysis.

Mr. DEYOUNG (Cook). What I am asking is why do you cut off the right of redemption in this particular proceeding to foreclose?

Mr. DAVIS (Cook). So that you could get a good title.

Mr. DEYOUNG (Cook). So that you could get it summarily, in other words?

Mr. DAVIS (Cook). Yes.

Mr. DEYOUNG (Cook). Without waiting for the period of redemption?

Mr. DAVIS (Cook). Exactly.

Mr. DEYOUNG (Cook). Now, may I ask also why you eliminate at the end of section 5 in the present Constitution the requirement that occupants shall be given notice. Why do you dispense with that?

Mr. DAVIS (Cook). It has been found to be a provision which has been unworkable. You take a foreclosure of an office building, with thousands of occupants in it, and you have somewhat of a complicated and drawn out procedure. You never can get them all in. You can hardly ever get ahold of all of them. I don't see that it has accomplished anything.

Mr. DEYOUNG (Cook). Don't you think, General, that the remedy is worse than the disease, because the case of these foreclosures of office buildings would probably be so very few, whereas in other cases—take, for instance, farms and other improved property, where there might be a single occupant and where notice to the occupant is a very essential thing in order to preserve his rights—do you think we ought to dispense with that requirement?

Mr. DAVIS (Cook). Is there any particular reason for making a special distinction in the procedure in the case of a single occupant than in connection with any other building in connection with the litigation affecting the title to real estate? If the lawyer drawing the bill felt that it was a situation where the occupant should have had notice, he is going to do it anyway.

Mr. DEYOUNG (Cook). I know, but here you are divesting the owner even of a very small investment, of his fee interest, and it seems to me that section ought to be modified. To dispense with notice in many cases to the owner of the equity, I believe is going rather farther than we ought to.

Mr. DAVIS (Cook). Well, it certainly would require notice to the owner. The fact that he may happen to be an occupant at the same time does not change the situation.

Mr. DEYOUNG (Cook). The occupant may have other than a fee interest. He may have some other interest which may not be of record.

Mr. DAVIS (Cook). It would not be cut off if he had it.

Mr. DEYOUNG (Cook). Well, the title might not be good, but why dispense with it here?

Mr. DAVIS (Cook). The committee was prompted to eliminate that provision after listening to statement after statement to the effect that that provision has been one of the most effective deterrents in getting a good title based on a tax sale.

Mr. DEYOUNG (Cook). Well, that may be very true, but I still labor under, perhaps, the misapprehension that what we are seeking to accomplish here is more important in the average case to protect the owner who may lose his interest, or be divested of his interest for a pittance in so many cases. I don't know in writing a Constitution that we ought to aid gentlemen to succeed in doing these things. Certainly we are under no obligations to the average tax man in Cook county.

Mr. DAVIS (Cook). No, I don't think that he ought to be considered at all. In fact, the committee found itself in this position, that it wanted

to be very certain that it was not making any provision in aid of any man who made a business of buying at tax sales, but it wanted to be very certain that it was going to act in aid of the State and the political subdivisions thereof that were going to collect the taxes.

Mr. CORCORAN (Cook). Mr. Chairman, I think this provision is a very good one. Any person who is familiar with the Cook county building, where they hold the tax sales, will find that on the first and third Mondays of every month, at which time our terms of court begin, that there are a great number of foreclosures going on, and a great many ignorant people are down there who have been served with summonses in these matters, and do not know what they are down there for. The cases are not coming up, they have no interest in the proceeding, and they are running around from court to court trying to find out what the matter is, and they do not know whether it is a foreclosure or whether it is a divorce proceeding or what it is, and for that reason, if for no other, these people lose days' wages, the man and his wife and probably children come down, and they have really no interest.

Mr. DEYOUNG (Cook). Then you would dispense with the requirement of service in the average lawsuit, apart from this kind of a suit, upon an occupant, just because they might be inconvenienced in coming to the courthouse one day?

Mr. CORCORAN (Cook). In this kind of a suit or in a foreclosure, the occupant—

Mr. DEYOUNG (Cook). The foreclosure of a mortgage.

Mr. CORCORAN (Cook). In the foreclosure of a mortgage, the renter of the property, the occupant, really has no interest.

Mr. DEYOUNG (Cook). How would you cut off his interest? Suppose he had a lease after the mortgage was made?

Mr. CORCORAN (Cook). That may be a different thing, but in this foreclosure of taxes he has no interest.

Mr. DEYOUNG (Cook). You haven't any way of telling what interest he might have.

Mr. MACK (Hancock). May I ask the gentleman from Cook, Mr. Davis, a question?

Mr. DAVIS (Cook). Yes, sir.

Mr. MACK (Hancock). I find in section 4 of the present Constitution that it provides as follows: "There shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order of judgment of some court of record." I find at the end of the provision coming from your committee the following: "But the General Assembly shall not be precluded from providing by law such other means for enforcing payment of taxes and assessments, delinquent and otherwise, as it may see fit."

Mr. DAVIS (Cook). Just a moment. I can answer your question before you put it. The words which you just read from the Constitution of 1870 had been incorporated a little earlier in section 4 verbatim, "and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record."

Mr. MACK (Hancock). Now, you think that disposes without any question of the last four or five lines?

Mr. DAVIS (Cook). Yes, sir.

Mr. MACK (Hancock). You think that providing any other method would not shut out the method I just read?

Mr. DAVIS (Cook). No, sir.

Mr. MACK (Hancock). You feel as a member of this committee, and as a lawyer, that that is perfectly safe, and that there could be no sale except under orders of court, as you have it?

Mr. DAVIS (Cook). That is certainly my understanding.

Mr. HAMILL (Cook). Mr. Chairman, I move that what I now send to the desk be substituted for section 4.

AMENDMENT No. 28.

Section 4. No sale of real estate for delinquent taxes shall be made except upon the judgment of a court of record, after notice to the owner and not less than two years shall be allowed the owner to redeem from such sale.

CHAIRMAN WHITMAN. Delegate Hamill offers a substitute for all of section 4 as read.

Mr. JOHNSON (Bureau). Mr. Chairman, it occurs to me that that substitute has no place in the Constitution, because the General Assembly by reason of its inherent power has the right to do all that that seeks to give. If we should say nothing in the Constitution upon this subject, I find no limitation elsewhere in the Constitution upon the General Assembly exercising the power relative to this subject.

The second reason is this: Under sections 4 and 5 of the present Constitution, the builders of that Constitution had in mind two things. First, let me say that that is a summary proceeding to get action quickly, and get the taxes. The two thoughts that the framers of that Constitution seemed to have in mind were, first, that no man's property should be sold for the non-payment of taxes unless upon the judgment of a court of record.

Now, that is a right which is safeguarded to the owners of all property. If you leave it blank open to the General Assembly, they might provide a remedy for the sale of property without notice to the owner, and without the judgment of a court of record in the premises. They might provide a proceeding where he would not have his day in court to question the regularity of the proceeding, to question the legality of the taxes levied and sought to be collected. I don't know what they might do under such a broad proceeding as that. Nobody on earth could tell what they might do. So that the framers of that Constitution said, and properly did so, and it is preserved in this article, that no property should be sold except upon the order of a court of record, which presupposes a notice to the owner of the property, to the end that he may be there and for the first time set up his objections to the legality or the regularity of the taxes levied. Now, it seems to me that we ought not take that away from the owners of property at any place in the State of Illinois.

The second thing that they had in mind was this, that after the property is sold in harmony with the judgment of the court of record, then the fathers said that every owner of that property shall have two years in which to redeem from that sale. There are the only two purposes that I see in the old Constitution, in this, that safeguarded and protected the rights of the property owner.

Now, we ought not here by this take away either of those rights, or leave it to the General Assembly, which may by some sort of a proceeding deprive the property owner of either or one of these rights.

Now, perhaps your committee did not know anything, but this is true, that we did go for six months, and these two sections gave us great trouble. Half a dozen different members of that committee tried their hand at drafting a proposal that would not only preserve these two sacred rights of the citizen, but would also leave the matter in such shape that the titles might be cleared up and settled and the property placed in the market so that the purchaser thereof might know that he had a title upon which he might stand with a reasonable degree of certainty and security, and so it is not legislative in the sense that it is binding, but it is suggesting a legislative course here.

We all know that in our respective localities there are hundreds of acres of land where the titles are clouded today by reason of these tax sales, and they are not cleared up. They pend and they pend, and they wait and they wait until the purchaser sells, and then he must clear up his title by some sort of a court proceeding before he can find a purchaser. We thought that we ought to direct the attention of the General Assembly to this fact, that titles ought to be cleared up in some way, and some proceeding

ought to be adopted by the General Assembly in the nature of a foreclosure proceeding, that would clear up the titles of the property which are clouded by reason of these tax sales. That was the only purpose of the committee in adding the additional lines which appear in this section 4.

Mr. HAMILL (Cook). Mr. Chairman, I am persuaded by the eloquence of my friend. I desire to withdraw the substitute which I offered.

CHAIRMAN WHITMAN. With the consent of the committee, the substitute will be withdrawn.

Mr. HAMILL (Cook). Now, Mr. Chairman, I desire to offer another substitute.

CHAIRMAN WHITMAN. Delegate Hamill offers as a substitute for all of section 4 the following:

(Amendment read.)

Mr. HAMILL (Cook). Now, Mr. Chairman, just a word. The delegate from Bureau has very eloquently pointed out that in the proposed section 4 there are some real limitations upon the power of the General Assembly, and they are imposed for the protection of the property owner, so that he may not have his property sold for delinquent taxes without an adjudication by a court after notice to him, and the period of redemption shall not be less than two years. Those have been the provisions of the Constitution for fifty years, and our people are accustomed to them. I see no objection to those limitations. I believe the Constitution should be so framed as to be limitations upon the power of the General Assembly in those respects in which we think the power should be limited, but that is all. I can see no occasion for creating machinery or purporting to confer power. Therefore, it seems to me the amendment I have proposed proposes a limitation which the gentleman commends, and which I approve, and I think the substitute should be adopted for that reason.

Mr. SUTHERLAND (Cook). Why do you wish to do away with the limitation which guarantees to the property owner that he won't have to go to more than one place to find out the status of his property, and to guarantee to him that more than one collecting officer shall not be entitled to go into court and ask for the judgment which is provided in that limitation?

Mr. HAMILL (Cook). I regard those as purely administrative details which the General Assembly is quite competent to care for. If you provide that the property owner must have notice and there must be a judgment by the court, and he has two years to redeem, you have guaranteed his substantial rights. The rest of it is pure administration.

Mr. SUTHERLAND (Cook). Mr. Chairman, it seems to me that the present limitation is a desirable limitation upon the power of the General Assembly, because it strikes a point upon which the General Assembly is subject and open to political dictation. There is more or less emulation and friction between various collecting bodies and their officers. A city wants to get all the tax it can directly into its treasury without going through the hands of the county treasurer. A city collector will have a larger staff in proportion to the amount of taxes that he collects.

Now, Mr. Chairman, in the City of Chicago our taxpayers already have a considerable amount of confusion and difficulty in making payment, in going from the county treasurer's office, where they see about their general taxes, to the city collector's office, where they look up their specials, and every effort that has been made to bring about cooperation between those officials has been only partially successful. They do try to cooperate, but each holds his own individual distinction. Now, Mr. Chairman, it seems to me that it is a desirable limitation which is continued in the present Constitution, and which would be omitted by the proposed substitute offered by the delegate from Cook. Therefore, I hope the substitute will not carry.

Mr. RINAKER (Macoupin). Mr. Chairman, I am heartily in favor of the substitute that is offered. I have had some little experience in tax matters, and I have always felt that the clauses of the Constitution that are the subject of this discussion were unfortunate, were restrictive, in effect

defeated the purposes of the act, and that is because of the particularity with which the procedure is specified, and I think it is a wise departure from an unfortunate section of the old Constitution, if we leave out these legislative provisions and protect the essential rights that are protected by this amendment. I think it would be a vast improvement over the present Constitution. I hope the amendment will be adopted.

Mr. JOHNSON (Bureau). Mr. Chairman, will either the gentleman who has just finished speaking or the mover of this substitute tell this Convention in what respect, if any, this substitute differs from the Constitution of 1870?

Mr. HAMILL (Cook). The Constitution of 1870 has a number of administrative details which are omitted from this.

Mr. JOHNSON (Bureau). Yes, but in effect?

Mr. HAMILL (Cook). In effect it protects the rights of the citizen just as the Constitution of 1870 does.

Mr. JOHNSON (Bureau). Yes, sir. And it is no different in substance than the Constitution of 1870, is it?

Mr. HAMILL (Cook). If you mean by substance that which is properly constitutional substance, yes—or, rather, it does not differ. It contains all of the substance which a Constitution should contain. It omits the statutory details.

Mr. JOHNSON (Bureau). So that if this be adopted, we may have reason to believe that the General Assembly will go on and on and on precisely as they have heretofore, with reference to providing a method by which titles may be cleared up and vested in somebody?

Mr. HAMILL (Cook). No. The difficulty heretofore has been that the Constitution prescribed administrative details which interfered with action by the General Assembly. This omits them. The General Assembly can now act.

Mr. JOHNSON (Bureau). Will you please point out the details which prevents the General Assembly from acting?

Mr. HAMILL (Cook). The details have not prevented. They have only been serving as an excuse.

Mr. JOHNSON (Bureau). Oh, I did not understand.

Mr. HAMILL (Cook). That was the statement of the gentleman from Cook who moved the adoption of the committee report.

Mr. Chairman, my attention has been directed to the fact that the substitute that I have offered says that "no property should be sold," and that would probably be applicable to personal property. With the permission of the committee, I desire to change the word "property" to "real estate."

CHAIRMAN WHITMAN. Please make your change and hand it to the clerk. The clerk will now please read the substitute as redrafted by the mover of it.

(Redrafted substitute read.)

Mr. MILLER (Cook). Mr. Chairman, it seems to me that it is unfortunate to read in the Constitution the provision that no title can be secured under a tax sale for two years—not that I have any tender feeling for tax buyers, but the present provision simply operates to restrict the bidding at tax sales to the professionals. That is the result. And the money cannot be collected for the State, if there is no sale, and often there is none, and the tax sale is a wholly ineffective method. If the legislature were left free to provide some such method as is provided here in this committee report for a foreclosure, then we might hope that taxes would be collected, the owner would get notice as he does not now get notice, and often does not know that his property has been sold until somebody has a tax deed. If the legislature were left free to provide some such method as is provided in this committee report, it seems to me it would be a vast improvement.

Our tax sales here are notoriously ineffective to protect anybody, and why should we continue this provision and not leave the legislature free to devise some sane improvement over our present system? The plan outlined in this report looks to me to be a reasonably sane and sensible plan. The

only question in my mind is whether this plan should be provided here, or the legislature should be left free to provide one of their own, this or some other, without outlining any plan here. But it does seem to me that there ought not to be this two years restriction here which prohibits the legislature from making any improvement on our present utterly inadequate and inefficient system.

Mr. HAMILL (Cook). Is it your understanding that the committee report, that under the power included in the last three lines, "The General Assembly shall not be precluded from providing by law," and so forth, that the General Assembly could provide a means for enforcing taxes which did not permit of two years redemption, notwithstanding the provision guaranteed by the two years redemption?

Mr. MILLER (Cook). Yes, in view of the prior provision there, "except in cases of foreclosure in equity as above provided."

Mr. HAMILL (Cook). You do not think they could provide for any sale by an office of the State which would not be a two year redemption?

Mr. MILLER (Cook). I do not think they could provide for a sale by any officer without a court proceeding, and the ordinary notice in a court proceeding to the owner.

Mr. HAMILL (Cook). But this foreclosure is a foreclosure after the first sale. The purchaser at that sale acquires a lien which he can go in and foreclose under court proceedings.

Mr. MILLER (Cook). Yes. He has the court proceeding, if such it can be called, where he never has any notice of the sale, and the other is a regular court proceeding where he has notice. It seems to me the legislature ought to be left at liberty to provide some such same method as that for foreclosing a tax lien, protecting every right that the owner has, and at the same time maintaining an efficient system.

Mr. GORMAN (Cook). Inasmuch as section 2 of the Bill of Rights protects the legal rights of the property owners, would it not be well to leave out the entire section, and to substitute as well?

Mr. HAMILL (Cook). No, because it has been held that a tax sale is not a deprivation without due process.

Mr. JOHNSON (Henry). I favor the substitute. We all came here to make this a Constitution of fundamentals. We have seen in many instances how we have departed from those good intentions. The substitute embraces only the fundamentals, and we should make a beginning here. I think it preserves all of the requirements and intentions of the committee, and if you can find something better than the committee has offered, I think we should avail ourselves of the opportunity.

Mr. MILLER (Cook). I move as an amendment of the proposed substitute, to strike out the words "for a period of not less than two years from such sale."

CHAIRMAN WHITMAN. Kindly send up the written amendment.

Mr. DUNLAP (Champaign). I am glad Mr. Miller has brought up the question in this form, because clearly it is the crucial matter in this section. The owners of property are clearly entitled by right to two years redemption. They have been used to it, and they ought not to be deprived of that right. It would seem, under the section as reported by the committee, that the two year exemption might be done away with by court proceeding, and that we are proposing one thing on the one hand, and then by legislative enactment put in the Constitution depriving the owners of property of the very right we are trying to accord them. I favor Mr. Hamill's substitute for that reason, keeping the two year redemption. We are not here in the interests of those who buy property at tax sales, but to protect the owners of real property, and not by notice by publication, or in some other indirect way, deprive a man of his property without due process of law. I think the lack of bidders is due very largely to the provision in the statutes here reducing the interest to too low an amount. That can be corrected by statutes of course.

CHAIRMAN WHITMAN. The clerk will read the amendment proposed by Delegate Miller of Cook.

(Amendment read.)

Mr. MILLER (Cook). On reflection, I want to withdraw that amendment. In explanation, I will say I would not strike out that limitation except by permission to the legislature to substitute in a statute some court proceeding which would enforce the tax lien in less than two years. I withdraw the amendment.

CHAIRMAN WHITMAN. With unanimous consent the amendment is withdrawn, and the question is now on Delegate Hamill's substitute.

(Substitute adopted.)

CHAIRMAN WHITMAN. The question is now on the adoption of the substitute, as now voted:

Mr. HAMILL (Cook). I move that the substitute just adopted, be incorporated as section 4 of the committee's report.

Mr. SUTHERLAND (Cook). I desire to offer an amendment to the section as it now reads, to be added at the end of the section.

AMENDMENT No. 29.

Amend section 4, as amended, by adding at the end thereof, the following: "and there shall be no such sale except on application of and conducted by the county treasurer."

Mr. SUTHERLAND (Cook). It seems to me of vital importance to the tax payer that he shall have one place to go to ascertain the status of his property with reference to delinquent taxes and special assessments. That is a desirable limitation to put into the Constitution. In the legislative session of 1917, upon the initiative of the city collector of Chicago, a bill was introduced which passed both houses changing the time of return of delinquent special assessments from the first day of March to the first day of August. That was done over the protest of all those interested because of the confusion which it was feared would result and which has resulted, to the extent that it is practically impossible now to bring successful suits for collection to secure judgment on delinquent special assessments. In the last year the books of the county treasurer were so tied up that he was not able to get into court on his general taxes until very late in the year. The General Assembly probably will change that, but that added a considerable force to the office of the collector to take care of all the additional work which formerly had been taken care of under one roof by the county treasurer. I think, though, the legislation was sought just the same with good motives. It seems to me highly desirable that we put this limitation in, that there should be a return of delinquent taxes and special assessments, so that the tax payer can have one place to go.

(Substitute adopted.)

Mr. SUTHERLAND (Cook). I desire to offer another amendment.

AMENDMENT No. 30.

Amend section 4, as amended, by adding after the words, "delinquent taxes" the words "and special assessments."

(Amendment adopted.)

CHAIRMAN WHITMAN. Are you ready now for the question on the section as amended?

Mr. HAMILL (Cook). Since the substitute offered by me has been adopted, my attention has been directed to a possible improvement. You are all aware that under a recent change in the law of mortgage foreclosure, the sale under mortgage foreclosure now takes place after the expiration of the period of redemption instead of before. It has been suggested that the same thing should operate in the case of tax sales, and that the time, the two years for redemption, should run after judgment but before sale, so that

when the sale is made the purchaser will really acquire title. That would stimulate bids, and the owner would get somewhere near the value of his property. I therefore move you that the substitute be amended by inserting after the words "two years," the words "after judgment," and striking out the last three words, "from such sale."

Mr. SIX (Pike). A sale for delinquent taxes is usually different from sale under a mortgage foreclosure. I can see in the amendment opportunity for a tax shark to get possession at a time when the owner of the property may be negligent. I do not know whether we wish to give the legislature opportunity to pass a law which may not be carefully considered. The present situation is much better. Anyone who bids at a tax sale never pays for his property. He can afford to wait his two years, if there is a possibility of getting possession. I think there is danger in leaving to the legislature opportunity for a hastily passed law on that subject.

Mr. SHANAHAN (Cook). As I understand it, the purpose of a tax sale is to realize money for county or municipality, and under the provisions of this amendment the sale would not occur until two years after the judgment, and the amount of taxes would be tied up for over two years.

Mr. HAMILL (Cook). True, if the General Assembly so provided; but, of course, when the sale was made the taxes, accrued interest and costs would come in, and while there might be a period when there would be some diminution of income, from that time on the income would be coming right along just as it is now. That could be easily left with the General Assembly. In reply to Mr. Six, it is true that at present tax buyers do not pay anything like the value of the property. They know they are not going to get a good title, and what they buy is subject to redemption. If they knew they were going to get a good title, and that there was no redemption, competition would reduce the price.

Mr. DUNLAP (Champaign). Do I understand that this provision would do away with tax sales as reported ordinarily, as conducted now, for a period of two years, and no return made for that period?

Mr. HAMILL (Cook). This provision would not do away with them, but under it the General Assembly might do away with them.

Mr. TAFF (Fulton). I do not see any practical difficulty in the administration of this proposition. If taxes are returned delinquent, the county makes application for judgment and obtains it, and on that judgment I suppose a certificate would be issued showing the amount of indebtedness to be paid to redeem the property. There is no reason why that certificate could not be borrowed upon as collateral. The owner of the property would then have two years in which to redeem, by paying the amount, together with costs and interest, and any other penalties imposed by law. At the end of two years after the judgment, the sale would take place, at which time the owner of the property could come in and pay it. Otherwise other bidders would, and would get title, and there would be competitive bidding where at present there is none. I assume also the legislature would provide where the surplus over and above the amount due on the judgment should go—that is, to the parties in interest. In that case the owner of the property has another chance to get something out of the equity. I see no difficulty in the administration of the proposition offered by Mr. Hamill.

Mr. ELTING (McDonough). I am opposed to the amendment. I think the substitute would have been a very good change, but the matter of allowing two years before sale will interfere very greatly with collection of the taxes. The object of the sale is to get the taxes in. As that is done now, the land is sold every June, and the money paid in. The municipality gets the taxes, and goes on with its business. The matter of redemption is then left with the purchaser and the owner. Under the proposed amendment the State would be without the taxes for two years, because there would be no sale and no money paid in. It will be very much better to hold to the section as amended before, allowing the two years for redemption, letting the land be sold and the money paid in, and then the redemption proceed. There is quite a distinction between foreclosure of land and sale for taxes. In a

foreclosure it is generally for somewhere near the value of the property, but a sale for taxes is generally a very small fraction of the value. I am opposed to the amendment.

Mr. DUPUY (Cook). I am also opposed to the amendment. I believe it is proceeding along the wrong line. There are two things to be secured; one is prompt payment of taxes, meaning revenue for the municipality, and the other is the protection of the property owner. I believe that if the amount of penalty imposed upon the property which must be paid by the owner when he makes his redemption, were increased, it would be a very much better method than to give the purchaser a good title. Make the amount of the penalty 12 or 15 per cent, and protect at the same time the rights of the property owner, and stimulate bidding, thus securing revenue for the State, and yet not go far enough to give a good title to the tax purchaser. We should not consider his rights at all. He gets the property for an utterly inadequate consideration. I think the method suggested of securing revenue is a very much better one than by undertaking to pass a good title over to the tax purchaser. I am opposed to the amendment and hope it will fail.

Mr. MIGHELL (Kane). The thing that brings the average tax-payer to the front is a sale of his property. I have had many clients ask me each year when the day for sale of taxes would occur. They wanted to get their money in the day before. They are willing to stand the one per cent a month, and they will pass it on until the first or second day of July, when the sales occur. I am opposed to postponing the sales two years, because I believe that not only those who are now delaying to the last day would delay for the two years, but thousands of others would be induced to do the same thing, and there would be hundreds of thousands of others who would say, "No harm can be done me; nothing will happen for two years. I can use the money to better advantage elsewhere." And I believe they will refuse to pay their taxes for the two years after they are due, if the amendment passed, and I am therefore opposed to the amendment.

(Amendment lost.)

Mr. MILLER (Cook). I desire to move an amendment to section 4.

AMENDMENT No. 32.

Amend section 4 as amended, by adding at the end thereof, the following: "but the Legislature may provide for enforcing the lien of such taxes or assessments by a proceeding in the nature of a foreclosure in equity after the period of redemption has expired."

Mr. MILLER (Cook). I hope we are not going to be so careful in this matter that we will prevent any taxing body from collecting any taxes, or that the man who pays his taxes voluntarily will be the goat. If the tax buyer has a means of foreclosure, so that he may be sure of getting his money within a reasonable time, and with actual notice, the same as in any other suit, to the property owner, so that his rights may be fully protected, it seems to me there may be some inducement for tax buyers to buy, and that the public will get the revenue. I offer the amendment for that purpose.

Mr. DAVIS (Cook). Allow me to state that in Cook county there are five million dollars' worth of uncollected taxes. Aside from the number of forfeitures, there are people owning real estate in Cook county who owe that sum to the county, which the county has not collected, and which the county finds itself unable to collect.

Mr. DEYOUNG (Cook). Is that for general taxes, or special assessments as well?

Mr. DAVIS (Cook). Both. Let me say about special assessments, in our own county, in any number of cities and villages where special assessments have not been paid, it ultimately turns out that the expense of the improvement has been borne by the general taxation.

Mr. DEYOUNG (Cook). A violation of the law.

Mr. DAVIS (Cook). All right, but let us look at the facts. Are you desirous of letting that thing go on? The fact remains that the good citizen who pays his taxes is carrying the burden of his neighbor who refuses to pay his. After mature deliberation we felt that if a provision were inserted here in the nature of teeth to give the person buying at tax sale the same opportunity to go into a court of equity and bring a foreclosure, the same as a person holding an obligation secured by a mortgage, it would make people pay their taxes. Let there be no mistake about another important point. There are instances where the owners technically lose their property at tax sales. That is, there is a case of the notice which is not in fact a notice; where the owner did not know about the tax sale, the case of sickness, and the case of ignorance. We believe that by providing a proceeding in equity, we give the owner of the property all the rights that the courts can give any one in connection with any procedure affecting property rights.

Mr. MACK (Hancock). Is not the matter you have in mind the matter of better getting jurisdiction of all parties in interest, so that the proceeding shall be final?

Mr. DAVIS (Cook). The amendment in a way meets the views of the committee. It provides that the purchaser at tax sale may enforce the lien by proceeding in equity.

Mr. MACK (Hancock). Can you then better get jurisdiction under that proceeding than under the present law?

Mr. DAVIS (Cook). Yes, by filing a bill to foreclose, and the basis of it is the purchase of the tax sale.

Mr. MILLER (Cook). Under the present system the owner of land may allow a tax deed to be issued to any one, and still for years and years the man who actually bought the tax certificate or took out the deed knows that there is no telling when he will get his money back. That very fact depresses purchasing at tax sale and causes many forfeitures; whereas, if the purchaser knew that he might go into court within a reasonable time, even if he could not get title until two years, and enforce either a payment of the money or title in himself, that would be an inducement to purchase, and enable the taxes to be secured, and do no injustice whatsoever to the owner of the land.

Mr. DUNLAP (Champaign). Would the effect of the amendment be that they could proceed before the time for redemption had expired, the two years time, or after that?

Mr. MILLER (Cook). Before, but they could not get title until two years had expired, so that the owner would have a good deal longer as it now stands than he would have if he had signed a mortgage and a note.

Mr. WALL (Pulaski). I am in harmony with Mr. Davis on this proposition. What he has said is also true down State, where matters have been pending for years, and yet the owner has never paid the taxes, and the man buying the certificate has received neither money nor interest. If he ever gets title, he gets a defective title, and the Supreme Court has repeatedly said so. It seems impossible under the present law to get a good title. I am in favor of the amendment allowing foreclosure. I favor saying to the man who refuses to pay his portion of the burden of government that the man who pays it for him should have the right to foreclose upon his property, just as if he held a note and mortgage past due. I think that ought to be in the Constitution, and I am in favor of the amendment.

Mr. DEYOUNG (Cook). So far as my distinguished colleague's figures are concerned, you will find that much the major portion of that five million dollars consists of delinquent special assessments. The difficulty there arises primarily in new neighborhoods that are subdivided beyond any present needs, and improvements extended into those neighborhoods, which, of course, the property cannot pay because the value is not there. When the day of reckoning comes, the property cannot bear the assessment and it is not paid. Because small municipalities infringe upon the general fund, and avail of the general taxes to make up their deficit, is no reason why we

should give that matter the slightest consideration, because under the law there can be no recourse to the general fund, and and city or village officer appropriating money from general taxation to make up deficits, violates the law and commits a criminal offense. Neither we nor the legislative branch of the government should seek to legislate at all to make up any such deficit, and I have no patience with any such contention. The tax buyer would scarcely be entitled to very much consideration at the hands of any public body, who, by the Supreme Court from the beginning, except in the three instances cited, has not been supported in his claim, because everybody knows that in the ordinary case, where a tax buyer purchases at tax sale, he pays a mere pittance of the value of the property. There are many instances where there has been a sale, and a failure to redeem, where there was a failure to pay some insignificant drainage assessment. Let the situation be considered as it is. We have not only general taxes and special assessments, but we have drainage assessments on small drainage districts. In the confusion of the law at the present time, there may be two or three offices for collection. Often I have observed a situation where a fifty cent drainage tax, an installment for a single year, that was to be collected by local collector, the owner going to the general tax collector of the town or county finds he failed to get that, because he pays to the local collector before it was delinquent under the drainage law. And he found a sale, and an actual tax deed issued, where he paid his general taxes and special assessments. Why? For the non-payment of the fifty-seventh installment of a drainage tax.

What is proposed here? They invoke as a parallel the case of a mortgage. First of all, the mortgagee usually loans up to half, and sometimes above, the value of the property. Has he any such remedy? Not at all. He is compelled to invoke the aid of a court of equity, with a decree after he has brought all parties into court; and if the lawyer has not been careful, the deed which may ultimately issue to him will not give him a good title, after waiting for the fifteen months; and that is where he has invested a substantial sum. In the case of the average taxpayer, he advances just a very small portion, if it is for general taxes, of the actual value of the property, and that is where the municipality is primarily interested, in the collection of the general taxes, because everybody knows under the law that he who purchases a special assessment bond, that is not to be paid out of that portion assessed to the community as a public benefit, is limited, and his recourse is slightly different and limited, by the very terms of the bond as well as the law, to the assessment collected; and the municipality suffers no deduction on that account at all.

Now, in ordinary times, before the legislation, there was no dearth of tax buyers, and ordinarily the community would receive its money without any delay. Then there was a two year period of redemption, the shortest permitted by the present Constitution. What is proposed now? Not the community alone, but the tax buyer, the man who has been at the sale and paid his money into the public treasury, is to be given an additional remedy—not something that a mortgagee has at all. He has his certificate of sale, and pending the period of redemption, is proposed to give to this tax buyer, who will get his tax sale certificate at the end of the two years, who has invested a comparatively small sum in proportion to the value of the property, another remedy, long before the period of redemption expires, and he is to be given a chance to get a fee title where he has paid his money into the public treasury for a mere pittance, in comparison with the value of the property.

Mr. DAVIS (Cook). When this point just raised by Mr. DeYoung, which is a very important one, came before the committee, we had gone far enough to incorporate in our proposal a provision that a minimum bid should be fixed; that the tax buyer was only to get the amount of money which he paid, with such penalty as the legislature should provide for, and that the balance of it should go to the original owner of the property. The answer was made, and I think correctly, that under the draft as we have it,

it would be possible for the legislature to provide a law covering this particular point. It certainly was not intended to give special rights to the purchaser at a tax sale, and we in this Convention ought not to care very much about the tax shark or any one else, but provide for the possibility of legislation which will; and our idea was to provide a system which would be so effective and so simple and so thorough that every man, for fear of losing his property, would pay his taxes. It was never intended that the purchaser at the tax sale should get the property for seventy-five cents or seventy-five dollars if the property was worth five or ten thousand dollars.

I am perfectly willing to use such words as you may suggest to prevent that.

Mr. DEYOUNG (Cook). I have no quarrel with that, but I think inadvertently there has been a good deal of solicitude here for the tax buyer, when, after the tax buyer has bought at the sale, we have no more concern with him. The community has received what it seeks to get.

Mr. DAVIS (Cook). But there are no tax buyers. Nobody buys now.

Mr. DEYOUNG (Cook). Not now, but the difficulty has been the fact that the rate which the tax buyer now under recent legislation is permitted to get, is not the machinery which compels the sale and collection of taxes, but the maximum which he can get. It is true, however, that the difficulty is not with reference to general taxes in the main. It is only in isolated cases, and only with reference to a very small portion of the taxes that are levied, that we have delinquency with reference to general taxes. You find it almost altogether with reference to special taxes and assessments.

Mr. DAVIS (Cook). On the matter of special assessments, I think it is a well known fact that on improvements of considerable character, municipalities have been obliged to issue special assessment obligations, which they dispose of to banks, and use the money to pay the contractor; or give the paper to the contractor and he discounts it at the bank, anticipating the payment of special assessments by property owners. Now, speaking for Cook county, the banks are refusing to take any more of that paper because the non-payment of special assessments has grown to such an extent that they are holding paper which has been due for a year or two, and cannot receive payment on it, and your forfeiture does not produce anything.

Mr. DEYOUNG (Cook). I quite agree that that is the case. Very few careful bankers these days will invest in special assessment securities of many small municipalities, because the value of the property will not insure payment of the special assessments as they accrue, and it is beyond the width of this convention to provide in the Constitution the value in property of that character, and exercise a compelling force, unless you create a contractual liability between the assessment and the owner of the property and resort to his personal responsibility to pay it. You can not, either by legislation or Constitution, put into a great deal of the new suburban property recently subdivided, that vitality which can insure the payment of those special assessments. Your remedies are summary enough, but I do not yet understand why a tax buyer, after he has his tax sale certificate, and is subject to the period of redemption for two years, and when they said so in 1917 they had good reason for it, because if a mortgagee can be compelled to wait for 15 months in the usual case, with a subordinate lien, and not a superior lien, as the tax buyer has, and is compelled not only to put in property, and interest, but all the current taxes and special assessments, with the costs of foreclosure, which are greater in the case of tax sale certificates, I do not understand why we should be solicitous about the tax buyer.

With reference to general taxes, the community today has its remedy to compel a sale of the property if there is a forfeiture, and it has exercised it many times.

Mr. DAVIS (Cook). I have no quarrel with you on the question of the period of redemption, and when the right shall accrue to the buyer to bring

the foreclosure. I am rather inclined to give the owner of the property all the latitude in the world, and if another year or two years are required, I am for it. Personally, and not as a member of the committee—by whose report I am delighted to stand—it would be perfectly agreeable to me to make certain that the right to foreclose does not in any way interfere with the period of two years for redemption. They are two entirely separate questions.

Mr. DEYOUNG (Cook). But since you have voted, you have put in here in the finest language that the foreclosure may precede the period of the expiration of redemption, and you have this situation: The two year period for redemption from tax sale, and a foreclosure suit by the tax buyer, probably instituted immediately after the sale, and in three months, or certainly within six months, he could get a deed to the property, in violation of what has been the rule under the period of redemption.

Mr. DAVIS (Cook). The answer is that the matter is left purely to the discretion of the General Assembly. It may provide for the foreclosure in equity of a lien.

Mr. GREEN (Champaign). A point of order. The majority report is not before the Convention. There is a substitute before the house.

Mr. MILLER (Cook). Suppose it were clear here, as it was intended to be, that the two year period of redemption still remains with the foreclosure? Would that then make any difference, in your view of the matter?

Mr. DEYOUNG (Cook). If your foreclosure will be after the two year period, with the right of redemption afterwards, as in ordinary foreclosure cases. Then the criticism I have urged would not apply. That is not within the proposition.

Mr. MILLER (Cook). But even as it stands now, with the two year period of redemption, what injustice does the property owner suffer by the beginning of a foreclosure proceeding, of which he has actual notice, so that if he has paid his taxes he has a complete defense; and if he has not, his property is cleared of the lien, whether it is a special assessment or a general tax? What injustice is done him?

Mr. DEYOUNG (Cook). First of all, I believe that in the case of a tax sale there ought to be at least a period of redemption as long as in the ordinary case of mortgage foreclosure.

Mr. MILLER (Cook). Supposing that this two year period remains in here just as it is now, as was intended by the amendment. Then, what injustice accrued to the property owner by the beginning of a foreclosure proceeding against him to foreclose this lien, of which he has actual notice, as he has not of the sale? Because if he has paid it to anybody, the proceeding fails, and his title is clear, but if he has not paid it, then he has a period within which to pay and redeem.

Mr. DEYOUNG (Cook). After the period of redemption from tax sale, you give the right to foreclose to the tax buyer.

Mr. MILLER (Cook). I mean to say, it does not seem to me that it matters whether the proceeding begins before or after the two years, if there is a period left for redemption by the decree of the court, a reasonable period, and that in any event the title cannot be finally given until after the two years.

Mr. DEYOUNG (Cook). Unless that would be inviting certain enterprising gentlemen to start foreclosures, and involve the owner of the property in considerable expense, and I do not know how you will avoid that. I do not know why there should be a foreclosure after the period of redemption from tax sale expired. I do not see why the tax buyer should have that. I have a case right now where less than \$100 was invested by a tax buyer, and the period of redemption has expired, and he is asking \$1,800.

Mr. DUNLAP (Champaign). I desire to offer an amendment, as follows:

(Amendment read.)

Mr. MILLER (Cook). I accept the amendment.

CHAIRMAN WHITMAN. The amendment is accepted.

Mr. TRAEGER (Cook). Do I understand the period of redemption means the two years?

Mr. DUNLAP (Champaign). Yes.

Mr. TRAEGER (Cook). I believe it is an injustice to allow them, as has been well said, to go into court—the tax buyers, I mean—and harass and bother the unfortunate. We must look at this from the standpoint of a great many of our people who are not familiar with the law. Many of them come in and say, almost weekly, “My property was sold for taxes.” And it probably was for a section improvement, or something of that kind. Then to give a right to the purchaser of that tax title to go into court prior to the two years would be a gross injustice, in my estimation. In other words, we would be inviting every man who had a tendency to engage in the tax shark business to come in and do business under this law.

Mr. GREEN (Champaign). I think there is one element here that ought to be explained. It may not be generally understood that the trouble with the present situation is that under the tax deed any remedy which the holder may have must be a proceeding in an action at law, in the nature of ejectment, in which he must recover on the strength of his own title, and therefore he is almost helpless. What this amendment does is to give him the benefit of an equitable proceeding, so that there may be a field equal at any rate to that possessed by the owners of other equities, to invoke the aid of a court of equity for his benefit. That, in my judgment, is the way to get rid of the tax buyer, about whom so much has been said as an evil; but nobody can expect at the present rates of interest anybody to buy in at these tax sales, knowing that he had no equitable remedy by which he could enforce his lien. I hope this Convention will loose the hands of the legislature sufficiently by allowing them to permit this equitable remedy.

Mr. WALL (Pulaski). Is there any difference between the foreclosure of a private mortgage and a foreclosure upon a certificate of redemption?

Mr. GREEN (Champaign). Except as to the amount of the lien. But is there any reason why, in your judgment, this Convention should specially favor a man who owes his taxes, as against the same man if he owed the same amount on a private mortgage?

Mr. WALL (Pulaski). I agree with you, that he ought to be no better off than the man making a contractual obligation.

Mr. SIX (Pike). These matters of collecting taxes for municipalities, protecting the title of the owner, and clearing the title for a tax purchaser, have all been used here as matters of argument. Both sides admit that they have gotten the general taxes, but the municipality has failed to get the municipal taxes. The reason given for that is that the property was not worth the tax. That means that the tax levied there was too burdensome. That proceeding was in the county court, *ex parte*, but with the binding effect of a judicial decree. That decree, taken into the Circuit Court, under the proceeding which the proposal here makes, is an equitable right, but nevertheless it is defeating the ownership of a man who failed to get in the original *ex parte* proceeding. That is, the showing having been made in the county court that the benefit to the particular property did not exceed the tax, that man cannot be heard in the Circuit Court, under this proposal, to deny that fact. That will be taking property from the taxpayer. This whole proposition, notwithstanding the fact that you call it equitable, in a court of equity, will do an injustice, a thing that we must not permit. There is not any question but what the municipalities will get their tax, under authority granted by the legislature. The statement is made that out of hundreds and thousands of tax title suits in the State of Illinois, only three have stood the test of the Supreme Court. Why? Because those proceedings were not legal. Notwithstanding that, you will allow a man to walk in with the legal title, into a court of equity, and say there that the remedy is equitable; and enforce in a court of equity that thing which the Supreme Court has said was not legal. You cannot attack that judgment when you go in, under the proceeding you are authorizing the legislature to

set out. This whole proposition is bound to bring litigation. It is going to defeat the security of titles, instead of making it better. The intent of the amendment is to clear titles, and I am in favor of it. I want titles secured. Every person interested in property wants the same thing. But this will not give it.

Mr. SUTHERLAND (Cook). I think the committee ought to call attention to the fact that in addition to other important points contained in the committee report, this was one which had careful consideration, and it was thought a necessity to the State, from the point of view of collecting its taxes, to insure beyond a doubt that the General Assembly take some action of that kind. This was one of several points that were carefully considered, and the committee, after such consideration, unanimously put such provision in their report.

Mr. DEYOUNG (Cook). Does the gentleman from Pike understand that this proposed amendment is merely to foreclose the lien?

Mr. SIX (Pike). Yes.

Mr. DEYOUNG (Cook). In confirmation proceedings in the county court, in order to have due process, there must be notice to the owner affected, and the statutory requirement of notice in one form or another is absolutely essential to jurisdiction. Therefore the property owner has had his day in court in that proceeding. The method of review is provided, and if he fails to pursue that method, the judgment is final and the lien is an actuality; and it is only that lien which is sought afterwards to be foreclosed; and that is not open, and should not be open, for further discussion or review.

Mr. SIX (Pike). I so understand.

Mr. DEYOUNG (Cook). Then there is no want or lack of due process, is there?

Mr. SIX (Pike). Not actual due process. There is a want of justice, however. I make the point that notwithstanding that substantial rights are taken away from the property owner, the property owner does not get into court. That lien is just as enforceable in the proceeding you wish to have as if he had been in court. The result is that an injustice is done. Theoretically no injustice is done, but we are dealing with practical facts. I think that any attorney who has represented municipalities will tell you that very few people come in and contest those matters; and if the property, as has been said, is not worth the taxes, that means that if the property owner knew that, he would have been there to contest it. Not being there to contest it, it shows that he was either ignorant, or he did not know. If he had actual notice, and did now know it, and then a court comes along to enforce the lien against him, he is deprived of his property, even though by due process of law. That is a thing I do not want to permit by this Constitution. I want to save a man from his ignorance as well as the injustice which might come about through his own volition.

Mr. DAWES (Cook). This discussion has been one of legal procedure and of course one who is not a lawyer cannot enter into that side of the discussion. But when I sat upon this committee I was impressed with the importance of this practical aspect of the situation. The State levies its taxes upon property, and if those taxes are not paid, one of two things must happen. The State must take over that property, or the State must find a purchaser, and out of the proceeds of that purchase the taxes must be paid. I am not standing here as a defender of the tax shark. I call attention to the fact that he performs a necessary function in society. The conditions that were established under the old Constitution, and the legislation that followed it during the earlier period, provided for the tax shark an opportunity to make an outrageous profit in the pursuit of his profession. The resentment following brought about a correction of the law. The condition that followed that was that there was no one in the market to bid upon property upon which taxes had not been paid. The committee in framing this desired to leave such freedom to the legislature as would enable it to fix conditions that would give a profit to the tax buyer. In the past he had

been a necessary evil. We wish to give him the opportunity to perform without degradation or disgrace to himself, this very useful service to society. I hope that the delegates will not forget that some conditions must be fixed, either by the legislature or in this Constitution, that will limit the power of the tax buyer to abuse his privileges, and at the same time give him such a promise of profit as to insure bids upon this property where for some reason or another the taxes have not been paid. Now, although there may be good reasons why an individual has not paid the taxes upon his property, the fact remains that he is in default. The punishment should not be severe, but some moderate punishment in the way of loss is not inappropriate to the man who has neglected to pay his taxes. The function of the tax buyer is a necessary one in society, and conditions must not be imposed that will make it impossible for him to perform the services that society requires of him.

Mr. SUTHERLAND (Cook). I move that debate be now closed.

Mr. DAVIS (Cook). I second the motion.

(Motion carried.)

(Amendment offered by Mr. Miller (Cook) adopted.)

Mr. JACK (Jasper). I desire to offer a substitute for section 4 as now amended, as follows:

AMENDMENT No. 33.

Section 4. The General Assembly shall provide in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments for state, county or municipal or other purpose, that a return of such unpaid taxes or assessments shall be made to the county treasurer, and there shall be no sale of said property for any of said taxes or assessments, but by said officer, upon the order or judgment of some court of record. The General Assembly may provide for the foreclosure in equity of the lien of such taxes or assessments hereafter created; and it may also provide that the purchaser at any tax sale hereafter had shall have a lien upon the real estate purchased by him at such sale for the sum or sums properly paid out by him with interest thereon and may, within one year after the period of redemption has expired or after receiving a tax deed, or in case of forfeiture (in addition to other remedies arising out of said order or judgment and sale) enforce such lien by a proceeding in the nature of foreclosure in equity subject to such conditions as the General Assembly may impose.

The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of the owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the General Assembly shall provide by law for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments and when the time for redemption has expired. But the General Assembly shall not be precluded from providing by law such other means for enforcing payment of taxes and assessments, delinquent and otherwise, as it may see fit.

Mr. JACK (Jasper). My object is this: we have discussed this question from all angles, and we have come to the point where the convention has adopted practically every restriction as offered by the committee. This proposed substitute is virtually the section as reported by the Committee on Revenue, with the exception that I have stricken out in line 18, "Except in case of foreclosure in equity, as above provided." I think that was possibly an objection to the report.

Mr. HAMILL (Cook). A point of order. The pending measure has been, by vote of this body, substituted for the committee report. The gentleman now says that he proposes to substitute for that substantially the committee report.

CHAIRMAN WHITMAN. I notice that he also claims that there have been material changes made in the original report. The same report would be out of order, but with the changes made, I think is in order.

Mr. JACK (Jasper). There is another important change. I do not think that in any foreclosure proceeding it should be left possible that the taxpayer would be deprived of the usual period of redemption provided by the statute in foreclosure cases. I think that also was an objection to the original report. I have provided in there another condition, that was not guarded against by the report of the committee, and that is, as to the time of beginning these foreclosure proceedings, namely:

"And may within one year after the period of redemption has expired, or after receiving tax deed, proceed to foreclose." My object in this is that under the statute now, a tax deed must be taken, I think, within the period of one year. And under the statute, if the purchaser at a tax sale fails to take his deed within that time, he is not entitled to the tax deed; and I do not think that he should be allowed to foreclose any lien on a tax sale without taking the deed, unless he begins his proceeding within one year, but after the two years for redemption have expired. To illustrate: the section as now adopted would permit a man to purchase in at a tax sale, not taking his tax deed within one year. In the course of years that property might increase in value, and after the property had so increased in value, he could go into court at any time and enforce that tax deed. I think there should be a definite limit put upon it, except where he has taken a deed. And after he has taken a deed, then he can foreclose, and use his tax deed. The section as now amended does not provide in case of forfeitures to State or city. I think the committee sought to give the State the same right to foreclose on forfeitures, that the tax buyer might have.

Mr. WALL (Pulaski). Is it your theory that the foreclosure should be started only after the time of redemption has expired, and one year preceding the issuing of the deed?

Mr. JACK (Jasper). Yes, sir; or if he takes the tax deed, at any time thereafter.

Mr. WALL (Pulaski). Supposing the foreclosure is started six months before the deed is taken out?

Mr. JACK (Jasper). No, sir; he must have the time of redemption.

Mr. WALL (Pulaski). Do you mean to say that the foreclosure shall not be started until after he gets the deed?

Mr. JACK (Jasper). I think the reading of this section will explain itself.

Mr. WALL (Pulaski). You say, then, that the man receiving a tax deed could say to the property owner, "I have got a deed to your land, and in addition to my deed, I have paid out penalties and interest, and I am going to start foreclosure proceedings." In other words, the deed would not mean anything. It would not operate as an estoppel, legally or morally, to prevent foreclosure.

Mr. JACK (Jasper). The holder of the deed might pursue his own course. He could either do as the holder of the deed does now, or if he chooses, he can go in a court of equity and foreclose the lien. Did you not provide in your section, as amended, for a tax deed? You left it to the discretion of the purchaser, first, whether he should take out a tax deed, or within one year after the time of redemption has expired, begin foreclosure proceedings to enforce his lien in equity.

Mr. WALL (Pulaski). Do you think as a matter of law, after the deed is taken out, you could then foreclose a lien on the property, by using the deed as the basis of what he has paid?

Mr. JACK (Jasper). That is what the section as you have adopted it, provides for.

Mr. GILBERT (Jefferson). As I understand you, Judge Jack, your amendment provides for the purchaser of property at a tax sale having one year after the period of redemption has expired, to foreclose the lien.

Mr. JACK (Jasper). Or take out a deed.

Mr. GILBERT (Jefferson). As I understand it the amendment also provides in case of forfeitures that is where it is struck off to the State, or there are no bidders that the State may, without waiting for that period of time take proceedings by foreclosure to obtain the payment of the taxes.

Mr. JACK (Jasper). Yes.

Mr. GILBERT (Jefferson). That is the purpose?

Mr. JACK (Jasper). Yes.

Mr. GILBERT (Jefferson). So in case there are no bidders at the sale, or in case it is struck off to the State, the State or the taxing bodies have a right to immediately proceed with foreclosure proceedings, but in case of sale the property owner would have one year—the property owner cannot be proceeded against by foreclosure until after a period of two years from the date of sale.

Mr. JACK (Jasper). Yes, sir. I think that this is an important provision in regard to the forfeiture. I remember in my county many years ago there were few purchasers at tax sales, and taxes were allowed to run delinquent, school districts and other local authorities were having trouble getting money on back taxes. The back taxes were carried by year after year. The back tax record was a comparative extensive tax record, with penalties and interest added on each time. So the county authorities—I don't know whether it was authorized by law, but they did go in and foreclose and sell out the property at what it would bring, and after the usual period under foreclosure the purchaser got a deed. It did do this, it enabled the county officers, the county treasurer, to get rid of this vast amount of taxes, back taxes. Now to my own personal knowledge during the period of the last thirty years we have no such thing on our tax books as these back taxes, because we are more fortunately located than you are in Chicago and Cook County. There is at each and every sale not only one bidder but numerous bidders to purchase every bit of delinquent real estate that is offered for sale. I had a considerable part in later years to get that part of the county tax cleared off. I think there should be a provision here in the Constitution giving the tax authorities the right even to foreclose the lien. This question has been discussed largely here, this morning, and I only desire to say further that my reason for offering this substitute, correcting what I thought were the evils in the report of the report of the Committee on Revenue, is this, this Committee on Revenue has given six long months to the consideration of this section in our revenue article. On that revenue committee I know there has been able lawyers, and those that fairly and conscientiously considered every proposition, and I believe that they have formed and well-formed the section, and I believe that well-formed section is better constructed than the one we patched and sewed together here; better language and better construction of it, and finally, gentlemen of the Convention, this Convention has finally accepted practically every proposition and principle that was layed down in the original report of that committee; why not let us take advantage of their careful planning and use of language to express the thought that we practically embody in the amended section.

That is my reason for it.

Mr. GILBERT (Jefferson). Mr. Chairman and gentlemen of the Convention, I rise for the purpose of stating that I am for the substitute offered by my colleague.

As the discussion respecting this section has progressed during the hours that have passed it has become more and more apparent that the general plan of this section as submitted by the committee is far superior to any section assembled piece meal, upon the spur of the moment in this hall, as has been done this morning.

The modification of the section submitted by the committee, by the delegate from Jasper, has a material provision in it from my viewpoint; the section or provision that the tax purchaser shall have the right of foreclosure under that provision at the expiration of two years from the date

of purchase, and he must exercise that right within one year; and the clear provision that the State may proceed without having to wait to obtain the tax due by foreclosure is certainly an essential provision in either the Constitution or statutes. This State is entitled to the payment of taxes without delay, as is well suggested and pointed out by the argument this morning, so you have safeguarded the owner of the property by giving him a long time in which to redeem, and you have also safeguarded the rights of the State on the collection of the tax from the property; there is a situation down in the district where I live, at this time, and not a small owner or an individual of small means, but it was forfeited by a railroad running through other counties, and the taxing bodies went without their money, for years because of the inadequate and inefficient methods of obtaining payment. Under this proposal, and provision, action could be taken without delay. You need not worry about the legislature; so a railroad that does not pay its taxes because it knows the technicalities raised here this morning and that a tax title will be worthless, will be constrained to make some sort of provision even if they are in the hands of a receiver, for the payment of taxes.

I think that this provision ought to prevail. I believe it ought to be adopted by this Convention, and as I said a while ago the modifications that have been made while they are only slight, apparently, are really far reaching and beneficial.

I do not share, gentlemen of the Convention, the sentiments expressed that the tax purchaser, at a tax sale, the man who enables the taxing bodies to get prompt payment, should be an outcast. I do not share the sentiment that a man who purchases this railroad in my county, because they failed to pay their taxes, is entitled to be defeated and deprived by that railroad of the thousands of dollars that he put into the treasury of the taxing bodies. I do not believe the State wants to work a fraud or beat anybody by failing to protect the man or person who enables it to get its funds in the way of taxes promptly, and force him to lose, as you would in ninety-nine cases out of one hundred. It is not consistent with our form of protecting the rights of property.

With this provision adopted and carried into force by the legislature, this condition which now exists will no longer exist. I am for the substitute offered by the delegate from Jasper.

Mr. HAMILL (Cook). I quite thoroughly share the views of the last speaker that the man who advances the money to the taxing body should not be discriminated against. I fail to see the relevancy of that to the present discussion. The present discussion is, shall the committee report or the substitute, which is substantially the committee report, by substituting for that, that which was a while substituted for it. The substitute, with its present amendments, is, in my judgment, a compact, succinct limitation upon the powers of the General Assembly, in those respects in which it is perhaps wise to limit the General Assembly, and nothing more. The present substitute for that is a long, discursive statute, which in my opinion would be misplaced in the Constitution. I trust the motion will fail.

(Adopted.)

Mr. SUTHERLAND (Cook). I now move that section four, as amended by this committee, be recommended to the Convention for adoption, as section four of the revenue article of the new Constitution.

Mr. GREEN (Champaign). It does seem to me, Mr. Chairman and gentlemen of the Convention, that this Convention should be at least a little bit consistent. Let us compare this section which is adopted with the section that was put together piece meal as it has been said. In all fairness, as we go home to our constituents, and ask for their approval on what we have done, which, with the greatest fervor could we ask their commendation on?

Some way, I do not feel in the adoption of this substitute, which took out all of the benefits which the committee had of equitable relief, in the way of limitations on the legislature, and impose more legislative machinery than was already in the Constitution, for which reason it was amended

by substitute, I cannot see anything of which we would be proud in that kind of a revenue article, which would so involve the collection of taxes that the Supreme Court would never get through construing it.

Here is the section as it has been adopted. (Reading section.) I would respectfully inquire what is there in this amendment that any of us want that was already couched in this succinct language, composing the amendment offered by the delegate from Cook? The amendment made by it may be boiled down into this language. (Reading section.)

Is there a man on the floor that wants more in a section of the revenue article than that? What argument has been advanced in favor of any substitution for anything else? Do they want to tie the hands of the legislature for the next half century, perhaps? What other principle of constitutional law making has been suggested as improperly embodied in the Constitution? If already covered it would be a matter of our going out and saying we did limit the General Assembly in this way, laying down three elementary principles of equity, and left the legislature power to provide for one year or two years or six months within which to start an equity suit, or to start it immediately.

I am impressed with the argument that was advanced that the State ought to have a preference over the tax buyer, if perchance a railroad was built which could not pay its taxes, and against which the collection of taxes could not be enforced because of its insolvency, that a method be provided for the State to start a proceeding equity so that the State could own it, honestly, I cannot see the advantage from the standpoint of the State of that result.

These matters which suggested in the revival of this discussion by the substitute question, and the thing for which we substituted this succinct language seems to me but an attempt to make in this section of the Constitution a legislative tribunal.

Mr. JACK (Jasper). I am not a literary genius, or I do not profess to command at all times an exact and accurate control of language, but one reason and my principal reason for wanting this section as it is now, from my view point is because the language is much better language than the patched together work that we brought forth before, and the Convention has adopted and passed upon practically every restriction on the legislature which is in this section and in this language. I think also that there is one feature in this, and in the construction that was given it by the committee that was not in the other, that should be in any section of the Constitution adopted here, and that is that if the foreclosure proceeding was pursued that it should be pursued within one year after the time of redemption had expired, or the purchaser should take his tax deed.

I simply am for it because I believe the language of the section is better than the language that we have got in the patchwork section, and it embodies the same points and adopts the same restrictions as were adopted in the other.

Mr. TAFF (Fulton). In the section as presented by you is the tax deed provided for there any more than a lien, and doesn't it require a proceeding in foreclosure to perfect the title?

Mr. JACK (Jasper). The tax deed, Delegate Taff, is just what a tax deed is now.

Mr. TAFF (Fulton). I say from the construction as presented by you of that section isn't it only a lien, and must not a foreclosure be taken before it becomes a title?

Mr. JACK (Jasper). Probably before it becomes an unquestioned title, yes, I would say that the tax purchaser, if the tax were legally and properly levied, and the primary steps were legally and properly taken that the— if the purchaser had complied with the proper notice as provided by the statute, and the officer or the county treasurer to sell it had given the proper legal notice, that if all those things could be shown to have been strictly complied with under the statutory provisions, and there were no illegal taxes—

Mr. TAFF (Fulton). Your tax deed then would be preferred.

Mr. JACK (Jasper). Yes.

Mr. TAFF (Fulton). The wording is this: "Before or after receiving tax deed to enforce such lien by a proceeding in the nature of a foreclosure in equity." Don't you think that under that wording a tax deed is nothing but a lien and you must take other procedures in order to get title?

Mr. JACK (Jasper). I thought that I had answered that question so that at least every attorney in the Convention would understand it, that the trouble with our tax deeds today is the failure to comply at some point strictly with all the statutory provisions.

Mr. TAFF (Fulton). Do you propose by this provision to remove those defects?

Mr. JACK (Jasper). I have given the purchaser an opportunity to go into a court of equity and enforce his lien.

Mr. TAFF (Fulton). Which is the tax deed?

Mr. JACK (Jasper). Foreclose his lien.

Mr. TAFF (Fulton). Which is the tax deed?

Mr. JACK (Jasper). Certainly.

Mr. DEYOUNG (Cook). You provide in your amendment, as I understand it "and may within one year after the period of redemption has expired after receiving a tax deed" enforce such lien, am I right?

Mr. JACK (Jasper). Yes.

Mr. DEYOUNG (Cook). In other words then the running of the statute of limitations for the right to enforce it depends to some extent on the action of the holder of the certificate, if he should take out his tax deed on the last day that the statute admits, he will have anyhow practically two years in which to start a foreclosure suit but if he elects to take out a tax deed he would have but one year under this section.

Mr. JACK (Jasper). He cannot start the proceeding.

Mr. DEYOUNG (Cook). Not until after the period of redemption has expired.

Mr. JACK (Jasper). Not until after the period of redemption has expired, and if he should take out the tax deed at the expiration of the two years time he might begin his proceedings immediately on taking out the tax deed.

Mr. DEYOUNG (Cook). Why interpolate "taking out the tax deed" if he fails to take it out within the period of redemption then he must bring this within one year.

Mr. JACK (Jasper). Yes, unless he takes out the tax deed.

Mr. DEYOUNG (Cook). If he takes out the tax deed on the 364th day of the year, the next to the last day, he still has a year after that to start the foreclosure hasn't he, under your language?

Mr. JACK (Jasper). He may have one.

Mr. DEYOUNG (Cook). You say that he may within one year after the period of redemption has expired or after receiving the tax deed.

Mr. JACK (Jasper). No you have the language wrong. "Or after receiving a tax deed."

Mr. DEYOUNG (Cook). Is that what you mean, any time after receiving or taking out the deed, there is no limitation in that case?

Mr. JACK (Jasper). What I sought to do was this, that if the purchaser failed to take out the deed he could bring the foreclosure proceedings within one year without taking out a deed.

Mr. DEYOUNG (Cook). Suppose he takes out a deed then what is the limitation?

Mr. JACK (Jasper). No limitation at all.

Mr. DEYOUNG (Cook). No limitation at all; then he is put on an exact parity with the public against whom the statute of limitations does not run. He is in a much better position than the mortgagee, the statute never runs, and two years hence he may start foreclosure proceedings; do you think that is a good provision.

Mr. JACK (Jasper). That is possibly true under the wording.

Mr. DEYOUNG (Cook). You cannot escape one of the two alternatives, if he fails to take out the deed he has twice as long as the man who does take out a deed—if he does it on the last day. If he does not take out a deed it goes on forever; has he the same right as the sovereign state has?

Mr. JACK (Jasper). I will say that I know of several cases where parties have taken out tax deeds, gone into possession of the land and paid taxes for a series of years, and then upon ejectment proceedings have been ejected; now I am giving him an opportunity in a case of that kind, where he pays taxes for a series of years, where the title is questioned he may go into a court of equity and foreclose it.

Mr. DEYOUNG (Cook). Even a landowner who has a perfectly good title to it may lose it by adverse possession over a period of years, while the tax buyer according to this has a right over that, the right to forever foreclose.

Mr. JACK (Jasper). Seven years possession and the payment of taxes is clear color of title; the Supreme Court has held that the tax deed is at least color of title.

Mr. DEYOUNG (Cook). I see no considerations in the proposal for the right to foreclose in private persons. You say the county officials foreclose?

Mr. JACK (Jasper). Yes.

Mr. DEYOUNG (Cook). It is a well recognized authority that the lien of the State and the public authorities continues until it is satisfied; and it is pursued now; if it is forfeited it is carried on from year to year; so you are doing something superfluous here, are you not?

Mr. JACK (Jasper). I think it is perfectly clear.

Mr. DEYOUNG (Cook). The remedy exists in your county, and I know it does in mine.

Mr. JACK (Jasper). There was no objection but one time when that remedy was pursued and that was probably thirty-eight or forty years ago.

Mr. DEYOUNG (Cook). Under the present Constitution.

Mr. JACK (Jasper). That was the only instance that we have had of it being resorted to; that was from the immense amount of delinquent taxes that have been reported to the State.

Mr. DEYOUNG (Cook). That was under the present constitutional provision?

Mr. CUTTING (Cook). The substitute means the same or about the same as the report of the committee.

Mr. JACK (Jasper). With some changes.

Mr. CUTTING (Cook). Well, if that be true, I want to call attention to the fact that the substitute had eighty-six words, adopted by this committee, first, eighty-six words with all its amendments, whereas the report of the committee has two hundred eighty-eight words. Now if they mean the same thing I am in favor of the short one.

Mr. KERRICK (McLean). I don't care to say a great deal about the matter, it was suggested by Judge Taff with the reference to the foreclosure of the tax deed, he seems to have the idea that that proceeding must be one to establish the title of the holder of the tax deed. It is nothing of that sort. It is simply a means of reimbursing himself for the money he has laid out in paying the taxes into the treasury of the public for another man. He has a right in that proceeding to be reimbursed with such penalties and interest as the law shall provide. It is not a proceeding to obtain a perfect or better title under his tax deed. Now, as to the suggestion of the delegate from Cook, with reference to their being no limitation, as to the time in which the holder of the tax deed may adopt this remedy to be reimbursed for what he has paid out; we are in exactly that situation and always have been and always will be. That when a man gets a tax deed there is no power on earth that can take that away from him or any remedy that he might have other than the ordinary statute of limitations, that he must be permitted to seek to reimburse himself, as he justly should and must, for the tax that he has paid to the owner of that land. There is nothing in our land law, and I presume never could be, that would take away

whatever right, whether it be great or small, that a man ought to have by getting from the public a tax title to the land on which he paid the taxes, they lie as tax titles, now and in the past. If the time should come that he should attempt in a proceeding to get his money back, and to have his title established as a good one, it is not provided for in either one of these propositions, either the substitute or the original proposition submitted by the committee.

There is another feature of this it seems to me not to have been sufficiently stressed. There has been a great deal of talk that this provision was intended to take care of the tax buyer, the man who comes in to furnish the revenue needed by the government, because the owner of the property does not pay it. That is only one-half of the case, the great trouble now is with reference to this matter, the immense quantity of property that has been forfeited to the State because the taxbuyers don't see fit to invest their money in it, and the State is left with a vast amount of this property, particularly in the case of Chicago, but it obtains elsewhere also in a large measure.

The reason the State cannot get rid of this property is that nobody wants to buy property that the State has no better title to than a tax buyer would have. The means provided in the substitute, and practically as reported by the committee is that through a proceeding in chancery the buyer may obtain a decree for the sale of that property upon which the State is the creditor for the tax. That decree is exactly the same as a decree arrived at in the foreclosure of a mortgage. It only subjects the land to the payment of so much as the complainant is entitled to in the way of tax and penalty, if there be such. The public is offered through that title what is perhaps a perfectly good title, if he buys at a sale. The owner is notified that he is to appear in the court, just as he would be if he were a mortgagor, and the public knows now that the title procured in that way is not a tax title, such as we have under present conditions, but is a title to the property. The purchaser gets a good title, the sale is public, precisely the same as a master in chancery publishes a sale in pursuance to a decree of foreclosure of a mortgage, if the property is worth more than the tax, the bid will be for more than the taxes and the State is paid what is due it, then the owner will get the rest of the purchase price just the same as in a foreclosure proceeding. While it will work to the benefit of the tax crook or the tax shark if you may call him that, it only works to the extent of paying him back the money he has taken out of his pocket to put into the treasury of the public. The benefit from these proceedings, particularly the proceeding in chancery, are not so much for the tax buyer as they are for the public, and the public is offered through a proceeding in chancery a title, which is probably just as good as the purchaser gets at a sale made by the Master in Chancery under and by virtue of a decree to foreclose a mortgage, and any other lien that may be incidental to a proceeding to foreclose.

I am a member of the committee, and feel some delicacy in recommending the work of the committee rather than what has been done here. I will say that committee was appointed for a purpose and that purpose is that they may study especially certain questions. There are twenty-five or thirty committees—I don't know exactly, but say twenty-five—and they have different functions to perform, they do not attempt to do all of the work of the committee of the whole or of the convention, they do attempt to do the work that comes within the purview of the committees of which they are members. Now they did this as well as they could. It appears after a pretty full discussion, that while there have been a number of amendments and substitutes, the consensus of opinion, of those who were not satisfied with the one offered, was that it was not far different from what they had presented to them in the beginning. Some alterations have been made in the substitute, which I think are beneficial. They are an improvement to some extent on the report of the committee. The substitute may be longer, but the matter of a few words more or less is of no great concern, neither the substitute nor the report as amended are of any considerable length.

These are the reasons I have in my mind for why it would be best for this committee to adopt the substitute.

Mr. TAFF (Fulton). In this proposal, it is proposed that the purchaser shall have a lien upon that real estate, isn't that true, for the amount of his fees?

Mr. KERRICK (McLean). The tax purchaser?

Mr. TAFF (Fulton). The tax title.

Mr. KERRICK (McLean). Yes.

Mr. TAFF (Fulton). Isn't there somewhere along the line some place where that lien must be merged into the fee to get a title?

Mr. KERRICK (McLean). It could be merged into the fee.

Mr. TAFF (Fulton). Providing there are no redemptions?

Mr. KERRICK (McLean). If the tax purchaser would buy it for what it was worth, he would get a title by virtue of the decree in chancery.

Mr. TAFF (Fulton). Isn't that the ultimate object, to merge the lien into the fee?

Mr. KERRICK (McLean). That is where I think you misunderstand the proposition. The tax title remains a tax title for all time.

Mr. TAFF (Fulton). And is only a lien for all time?

Mr. KERRICK (McLean). Is only a lien for all time, just so long as he comes in within the time allowed. If he goes beyond that it is dead. It has just as much power as any title has, and in the meantime if he is going to undertake to foreclose on the forfeited property, in that case the tax title, would have all of the rights which the tax purchaser had, they would be included, and when the property was disposed of he would get his money back when he had paid his taxes.

Mr. TAFF (Fulton). Then under your theory at a tax sale the purchaser can never obtain a fee?

Mr. KERRICK (McLean). There is no reason why? This tax title is worth something, but he cannot show it—let me ask you a question.

Mr. TAFF (Fulton). Yes.

Mr. KERRICK (McLean). Is there any provision of law which can change that that is if you should buy at a tax sale and your purchase would mature into a deed under the provisions of the law, is there any way under the sun that anybody could take that deed away from you, except for whatever it is worth?

Mr. TAFF (Fulton). They cannot take it away from me if it gives me the fee.

Mr. KERRICK (McLean). There is no difference at all in this whole subject, and the machinery provided by the committee for carrying it out, we stand in no different way whatever to the man who owns the tax deed than we did before.

Mr. TAFF (Fulton). If the purchaser later takes out his tax deed, isn't his lien merged into the tax deed?

Mr. KERRICK (McLean). In a sense it is.

Mr. TAFF (Fulton). Then if that is true what would you add by the enforcement of an equity proceeding in foreclosure, if you already have the title?

Mr. KERRICK (McLean). An equitable proceeding simply put there for the purpose of recording it; his lien is not a title.

Mr. TAFF (Fulton). But if his lien is merged into a tax deed he has no lien on which to foreclose?

Mr. KERRICK (McLean). Yes, he would, that does not extend the lien, it is only represented in other forms, and by other language. There is nothing here, there is no provision here, and there is nothing in either of the provisions that looks to settle the question as to whether he shall get the land. He may get it for one cent on the dollar.

Mr. TAFF (Fulton). That is not the ultimate purpose then?

Mr. KERRICK (McLean). It cannot be used for that purpose, it can only be used to reimburse him for the money paid out.

Mr. TAFF (Fulton). The ultimate object of this proposal is not to get the fee?

Mr. KERRICK (McLean). His only remedy at law is not effected one way or the other, by those proceedings, and that is ejectment.

Mr. MILLER (Cook). I wish to move a reconsideration of the motion by which the substitute was voted on in place of the section as amended. (Motion carried.)

CHAIRMAN WHITMAN. The question now is on Delegate Jack's motion.

(Motion lost.)

Mr. GREEN (Champaign). I now move that we proceed to vote upon the substitute as it was amended, for adoption, as a part of this section.

CHAIRMAN WHITMAN. Your motion is to close debate then?

Mr. GREEN (Champaign). Yes.

(Motion carried.)

Mr. HAMILL (Cook). I move the adoption of the substitute as it is now amended.

(Adopted.)

Mr. DEYOUNG (Cook). In the amendment as it now stands it means that the right of redemption is in the owner only, and that might not include a mortgage, and it seems to me we ought to amend it by adding "owner, owners and persons interested."

Mr. DAVIS (Cook). I move that by a unanimous consent of the committee of the whole the words just referred to by the delegate from Cook be added.

CHAIRMAN WHITMAN. Any objections?

By unanimous consent, the words will be added to the section.

Mr. LINDLY (Bond). I move that we adjourn until two o'clock.

Adjournment until two o'clock.

2:00 o'CLOCK P. M.

Convention met pursuant to recess.

CHAIRMAN WHITMAN. The committee will please come to order. The clerk will read section 5 of the report of the Committee on Revenue.

(Section 5 read.)

Mr. DAVIS (Cook). This section just read is a repetition of section 6 of the Constitution of 1870. I move its adoption.

CHAIRMAN WHITMAN. Is there any debate upon this section?

Mr. GRAY (Adams). Mr. Chairman, I would like to ask the committee if there would be any question in regard to the use of the term "State" taxes, whether that would in any way limit or restrict the municipal taxes, other than the taxes levied for what is known as the State tax—taxes for State purposes only? It looks to me like the article ought to be broad enough, if it is not, to include the purposes for which taxes are levied by either the State and the municipalities, by the authority of either. Mr. Davis will perhaps be able to make that clear.

Mr. DAVIS (Cook). The thing which brought about the incorporation of this provision in the Constitution of 1870 was that the General Assembly had actually in certain instances after the Civil War released certain communities from the operation of tax levies for State purposes. Of course, any municipality levying a tax would levy that only to apply to the property and the persons within its own sphere of operations. So I don't think that there is any necessity for going beyond the question of State taxes.

CHAIRMAN WHITMAN. If there is no further debate, we will proceed to the motion which calls for the adoption of section 5.

(Motion adopted.)

CHAIRMAN WHITMAN. Will the clerk please read section 6?

(Section 6 read.)

Mr. SUTHERLAND (Cook). Mr. Chairman, before proceeding to this section it will be noticed that section 7 of the present Constitution is omitted. Section 7 provides, "All taxes levied for State purposes shall be paid into the State treasury."

It was the unanimous judgment of the committee that that section had no great value, that it was a legislative and an administrative matter, and that as a limitation it was not worth preserving.

Section 8, providing that county authorities shall never raise taxes, the aggregate of which shall exceed 75 cents per \$100 valuation, except for the payment of indebtedness existing at the adoption of this Constitution, unless authorized by the vote of the people now appears in the proposed new article on counties, with some additions, and approved by this committee as a whole when that article was up for consideration.

Mr. HULL (Cook). May I ask a question, not concerning the section that is now before us, but concerning a section that has been omitted, section 7. That is what I want to discuss now.

I have some recollection a couple of years ago that some of the State agencies which had been authorized by law to receive fees in the course of the administration of their office had been keeping those fees and expending out of those fees, and that we have a decision that all such fees had to be turned into the State treasury, and that since that time all those agencies have been turning into the State treasury and have only been spending out of the appropriations actually made by the legislature. I have a recollection of this decision indistinctly, but do not remember what particular constitutional provision or statutory provision it was attributable to. Do you know whether it arose out of this section 7 which has been omitted? You remember that, Mr. Shanahan?

Mr. SHANAHAN (Cook). Yes. It was under appropriations made by the General Assembly.

Mr. HULL (Cook). Well, I remember it was fees, but I was not sure whether it was attributable to this section 7, or whether it was attributable to some other constitutional provision.

Mr. SHANAHAN (Cook). No; no money shall be paid except on appropriation made by the General Assembly; it was under that section.

Mr. HULL (Cook). That was the section upon which the court ruled?

Mr. SHANAHAN (Cook). Yes.

Mr. SUTHERLAND (Cook). I move the adoption of section 6.

Mr. TRAUTMANN (St. Clair). Mr. Chairman, I offer the following amendment and move its adoption.

AMENDMENT No. 34.

Amend section 6 in line 2 by adding after the word "village" the following, "and park districts."

Mr. TRAUTMANN (St. Clair). Mr. Chairman and gentlemen of the committee: Park districts in the State of Illinois have been exercising the same power as cities, towns and villages have under this section, while they are not specifically designated. They lay out their boulevards and improve them and levy their special assessments, not only on the adjacent property, but on property extending back 10 or 15 hundred feet if benefits can be shown as being derived from this improvement.

Now, while it is true that this has been done, it seemed to me, and this came as a request from the park district in East St. Louis, that it would be advisable to add these words to this section, because there are some cases where the court holds that if certain specifications are made and statements are made in a Constitution, that it has a tendency to exclude others and only include those that are specifically designated. Now, it seems to me when park districts make improvements, the same as cities, and special assessments are levied, and they spend a large amount of money and issue their bonds, that there should be no question about the validity of the same. For that reason I am offering this amendment, to cure it if there is any defect.

Mr. HAMILL (Cook). May I ask the gentleman a question? Has the validity of special assessments by park boards been determined by the courts?

Mr. TRAUTMANN (St. Clair). Yes, it has, and it has been upheld.

Mr. HAMILL (Cook). Well, if it has been upheld under the wording as it stands now, is there any need to put in anything more?

Mr. TRAUTMANN (St. Clair). Except that the Supreme Court personnel changes, and the opinions of the court change, and there would be no question about this. Everybody knows that sometimes the Supreme Court will reverse itself, and in view of the fact that there is a large amount of money involved in improvements of this kind, and the issuing of bonds, the park district of East St. Louis requested it, and therefore I move its adoption.

The gentleman from Cook here suggests that it might be made by adding "other municipalities." That was suggested to me, but I had serious doubts as to whether drainage districts and districts of that kind should be given the right to make these assessments, but I have no question but what park districts should be given that authority—or, as I said before, they have that authority.

CHAIRMAN WHITMAN. Any further remarks on the amendment?

Mr. GEE (Lawrence). Mr. Chairman, I would like to ask some member of the committee for information. I understand this section 6 re-enacts, so far as it goes, section 9 of article 9 of the present Constitution. Is it the idea of the committee that in the other portion of section 9 of article 9 now that provides for corporate purposes—municipalities assessing property for all other corporate purposes—is involved in section 7?

Mr. SUTHERLAND (Cook). Mr. Chairman, I would raise this point of order. Before opportunity was offered for presenting the committee's view on this section the amendment now pending was presented. It seems to me, therefore, that all that can be discussed at this time is the amendment offered by the delegate from St. Clair, and that as long as that is discussed, and as soon as that is disposed of one way or another, we can then get upon a discussion of the general section in general, but at the present time we are compelled to confine our attention to the present amendment.

Mr. GEE (Lawrence). I am trying to get a little information for myself.

CHAIRMAN WHITMAN. Are there any further remarks on the amendment of the gentleman from St. Clair?

Mr. GREEN (Champaign). Mr. Chairman, I would like to ask the delegate from St. Clair now with reference to this authority to levy special assessments by park districts. How long has that been the rule of law in this State?

Mr. TRAUTMANN (St. Clair). In this particular case?

Mr. GREEN (Champaign). Yes.

Mr. TRAUTMANN (St. Clair). Possibly three or four years that the opinion was handed down by the Supreme Court in the—I cannot give you the volume, but the title of the case was Van Notto vs. Giddy, and Mr. Giddy was the president of the East St. Louis park district. They started to build what is known as the North Boulevard, and they made their special assessments, and the special assessments went 1500 feet beyond the boulevard. It was tried by the Circuit Court and was sustained by the Supreme Court, and they held in that decision that it included park districts.

Mr. GREEN (Champaign). Was that park district one that was organized under the Act which makes the limits of the district co-extensive with the limits of a city?

Mr. TRAUTMANN (St. Clair). No, sir. That park district is in four townships at the present time, and has been ever since its organization.

Mr. GREEN (Champaign). Do you recall under what statute it was organized?

Mr. TRAUTMANN (St. Clair). No, I do not now.

(Amendment adopted.)

Mr. SUTHERLAND (Cook). Mr. Chairman, sections 9 and 10 of the Constitution of 1870 covered something of the same ground as to the taxation of property for local corporate purposes. It was the intent of the

committee to provide in section 6 for the authority to vest the corporate bodies, cities, towns and villages with power to make local improvements, and in section 7 to treat of the general taxation features which are treated in part in section 9 and in part in section 10 of the present Constitution.

Section 6 deals solely with the power of the General Assembly to vest the corporate authorities of cities, towns and villages, and now park districts, with power to make local improvements by special assessment, by special taxation of contiguous property or otherwise. The balance of section 9, together with what it was considered necessary to hold in section 10, is taken care of in section 7. Therefore, section 6 should be considered merely as taking care of the first sentence of section 9 of the present constitution, which reads: "The General Assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property or otherwise," and the word "or" was left out at the urgent suggestion of Delegate Dupee of Cook county, who is well known as an expert in special assessment law, and who reported to us numerous difficulties in handling public improvements because of the inability to combine in some cases special assessments with general taxation, because it was necessary in many cases where the public benefits greatly exceeded 51 per cent, to limit it to less than that so that the 51 per cent of the cost should be provided out of special assessments.

I move the adoption of the section.

Mr. GREEN (Champaign). May I ask a question? Did the committee consider some of the difficulties that have grown out of the language used in that section, "special taxation of contiguous property?"

Mr. SUTHERLAND (Cook). Well, Mr. Chairman, it has been six months since we ceased our intimate consideration of that problem. Of course, I am not familiar with that subject as Delegate Dupee, who unfortunately is not here.

Mr. GREEN (Champaign). What I had in mind is this: Suppose that the words "or contiguous property" were omitted, and it provided then that these municipal corporations have power to make local improvements by special assessment, or by special taxation. You are aware, I suppose, of the construction that the Supreme Court has put upon any ordinance which attempts to impose special taxation. It must be confined to contiguous property.

Mr. SUTHERLAND (Cook). Yes, I am aware of that.

Mr. GREEN (Champaign). Yet it does have its advantages in the prima facie validity or legality or reasonableness of the tax imposed. It has always seemed to me that if the time ever came that we could get rid of those words, it would save a lot of litigation, and it would certainly be progressive.

Mr. DAVIS (Cook). I want to ask Delegate Green if it is not a fact that the Supreme Court has construed this language? The language in section 6 as appears in the committee report follows the language of section 9 of the Constitution of 1870.

Mr. GREEN (Champaign). Yes.

Mr. DAVIS (Cook). And my recollection is that these very words, the power to make local improvements by special assessment or by special taxation of contiguous property, have been construed. I haven't the authority before me at the moment.

Mr. GREEN (Champaign). That is true, and this is the difficulty. I presume the lawyers are all familiar with the fact that special taxation carries with it the implied reasonableness of the legislative act in imposing the tax. Prior to the substitution of the present Local Improvement Act for article 9 of the Cities and Villages Act, when the city council provided for the construction of a local improvement by special taxation, the judgment of the city council was final unless it were shown that it was so unreasonable as to be unconstitutional for violating some other of the protective provisions of the Constitution; while by special assessment the city council

does not in the first instance impose any tax at all, that the matter then is a function of the court.

Now, the Supreme Court in construing this language has limited the use of a special taxation proceeding to those cases where the tax was all levied on property contiguous to the improvement. That is, the city council could not, under the Constitution, even with a repeal of the present Local Improvement Act, if it went back to this article 9 of the Cities and Villages Act, it could not impose the tax directly unless it was upon property immediately contiguous to the improvement. And it seems to me that it was an unnecessary restriction upon the power of the General Assembly; that they ought to have a right to provide for the construction of local improvements by special taxation generally, even if they did not confine the property immediately contiguous to the improvement, while they cannot do that now. And the legislature should have the power to vest that right in the city council, which will give the proceeding all the benefit of legislative action as *prima facie* reasonable.

It was so construed under old article 9 of the Cities and Villages Act, that the action of the city council was final and conclusive as to the amount of the benefits. While of course that is not exactly the law under the present statute, yet it was the law before the present statute was passed, which limited the city to assessing by special taxation the property to the amount of the benefits conferred, but it always seemed to me that it was unfortunate to have the special taxation proceedings confined entirely to the levy of a tax upon contiguous property.

In other words, the distinction today which prevails between special assessment and special taxation proceedings has given rise to lots of unnecessary litigation. Now sometimes the city council defines in an ordinance a special taxation proceeding when they do not mean that at all, or vice versa they make a special assessment on contiguous property, and it is productive of great litigation in determining whether or not they can confine it to contiguous property where they levy it by special assessment. That is a big subject, and has a wonderful lot of ramifications, and I just wondered if there is any use at all of retaining those words, "upon contiguous property," so as to limit the use of a special taxation proceeding.

Mr. SUTHERLAND (Cook). Mr. Chairman, I want it to appear immediately that I am not an expert in any sense on local assessment, public improvement law, but in order that I may have the matter clearly in my own mind, I would like to ask a question of the distinguished delegate from Champaign. Is it his thought that we should simply strike out the words "contiguous property?"

Mr. GREEN (Champaign). "Of contiguous property."

Mr. SUTHERLAND (Cook). Then, Mr. Chairman, I would like to ask this: What distinction he would draw then between special assessment and special taxation?

Mr. GREEN (Champaign). The court has already drawn this distinction. A special assessment proceeding is a proceeding where the city council as the legislative tribunal orders the improvement and orders that it be paid for by special assessment upon property benefited. What property is benefited then becomes a matter of inquiry for the administrative agencies of the court, and the district is laid out under form of law, the limits to be defined, while if the city council orders an improvement by special taxation, if this were out of the Constitution entirely, then the city council could itself impose the tax and fix the benefits as they did do it before the present Local Improvement Act.

Mr. SUTHERLAND (Cook). The thought I had in mind, Mr. Chairman, is this: "If you were going to strike out the words, "upon contiguous property," might you not just as well strike out the words "by special taxation?"

Mr. GREEN (Champaign). Oh, no, because "special taxation" preserves to the city council or board of trustees, the municipal authorities, that power

to impose taxes as a somewhat arbitrary power to levy a special tax, while if you have nothing but "special assessments," that same power is not exercised by the city council.

Mr. SUTHERLAND (Cook). Mr. Chairman, I would only say this: Our committee was carefully advised at each of its sessions when this matter was up, by the distinguished delegate from Cook, Mr. Eugene Dupee, and we regarded his advice as very valuable to us, and I think that the members of this committee on this floor would be loath to change the section as the committee approved it under his guidance unless he were present, and I would much prefer to have it adopted now with the understanding, of course, that, as other matters, it may be open on second reading if the necessity then appears.

Mr. HAMILL (Cook). Mr. Chairman and gentlemen of the committee: It seems to me that it would be perhaps unwise to make any change in this provision. There are now, as indicated by the distinguished delegate from Champaign, two perfectly distinct methods by which local improvements can be made. In the one, special taxation, the city council determines that the improvement shall be made, and what property shall be benefited, and what cost of the improvement shall be borne by each piece of property, and the owner of the property has no hearing in court to determine whether his property is benefited to the amount of the tax, or not. When improvements can be made by a method which is susceptible of being used in an arbitrary fashion, as that is, it seems to me that the benefits should be limited to contiguous property. There is always the alternative if the improvement benefits property not contiguous—it can be made under the special assessment provision, and there the property owner can be given a hearing before a court and a judicial determination made as to whether or not his property is benefited to the amount of the asserted benefit. It seems to me wise that the distinction should be preserved.

Mr. GREEN (Champaign). May I interrupt you just a moment to suggest, so that you may answer this difficulty: Because of this provision being in the Constitution now, that special taxation must be confined to contiguous property. I have in my mind a number of instances where the city council ordered an improvement by special taxation, limiting the tax upon property immediately contiguous to the improvement, which were absolute burdens and required the spread of it on that property only. Now, how would you meet that if this were in there?

Mr. HAMILL (Cook). Because the city council chose to do it then by special taxation?

Mr. GREEN (Champaign). In that case then we have the power to divide the tax between the public and the property and really fix it.

Mr. HAMILL (Cook). I really do not understand your question. What shall we do to educate city councils?

Mr. GREEN (Champaign). No, sir. You have a situation in which a city council passes an ordinance for a local improvement by special taxation. Now, having done that it is necessarily confined to adjoining property, contiguous property, and oftentimes imposes an unjust burden upon property which receives really no more benefit than property that is not immediately contiguous, but because they have ordered it by special taxation, the city council has taken advantage of that rule, and with the natural tendency of the courts to make improvements, great injustice is done to these properties that have to bear the tax.

And you may say why didn't they do it by special assessment? Just for the very reason that the city council thinks in order to divide the cost between the public and the property, and to preserve their right to really assess the tax; but they cannot assess it upon anything except contiguous property.

Mr. HAMILL (Cook). It seems to me that when the city council is given the choice between special taxation and special assessment, that the constituents of the members of the council are abundantly able to protect themselves, and if the council abuses this power and imposed special taxes

when they should do it by special assessment, their remedy is to elect another council.

Mr. JOHNSON (Bureau). Mr. Chairman, my understanding of the use of the pronoun "or" as construed by the Supreme Court in this section is this, that the city council under this section cannot resort to the methods of special taxation and special assessment and general taxation in the same proceeding; that they must be confined to special assessment and general taxation, or special taxation and general taxation.

Now, as I understand the explanation made by the gentleman, Delegate Mr. Dupee, it was this, that in the city certain property owners might and do own a narrow strip of land contiguous to the improvement, and if the city council could not resort to both methods of special assessment and special taxation, why, he whose strip of land is mostly benefited could not be burdened with any greater burden than land not contiguous to the improvement, and therefore the committee concluded that it would be better to leave out the word "or," and if there are any such cases as that where property owners are deliberately holding a strip of property adjacent to an improvement, that he might be reached by special assessment and special taxation and general taxation in the same proceeding.

Mr. GREEN (Champaign). May I ask a question of the delegate? Suppose that the city council wants to build a pavement and assess property back one block on either side of the pavement, and it so happens that along this mile of street there would be some blocks in which it was 150 feet deep, and others where a lot was 50 feet deep, and all the rest of the 150 feet was over on the other street: Now, with the Constitution in this shape, an ordinance would be valid in which the city council laid out the limits of this district which they wanted to specially tax, and if they wanted to fix the district, really wanted to prevent unfair assessments, that is, loading one lot with more than the council intended it should bear, they would have no alternative except to assess these lots 50 feet deep the same amount as they assess a lot 150 feet deep.

Now, if these words "of contiguous property" were stricken out, it would then be possible to have a valid ordinance by which they said that the property extending back 100 feet each side of this pavement, of this street, shall be specially taxed for the construction of this improvement. Now, I would like to know what objection there would be to giving the legislature the power to grant such authority to the city council?

Mr. JOHNSON (Bureau). That, as I understand it, Delegate Green, would leave the General Assembly with the full power to determine the area or the extent of the property which is improved or benefited?

Mr. GREEN (Champaign). That is right. They have it now, except they are confined to contiguous property only.

CHAIRMAN WHITMAN. Gentlemen, the motion is on the adoption of section 6 as amended.

Mr. GREEN (Champaign). Mr. Chairman, I move that the words in line 3 on page 4 "of contiguous property" be stricken out.

CHAIRMAN WHITMAN. The question is on the amendment of the delegate from Champaign, which is that the three words in the third line of section 6, "of contiguous property," be stricken out.

Mr. SUTHERLAND (Cook). Mr. Chairman, I wish very much that this amendment would not be adopted at this time, but that it be left for the second reading, when delegate Dupee is here, because I would like very much to hear his comment upon the suggestion.

Mr. GREEN (Champaign). Mr. Chairman, I have no desire to take advantage of anybody, but I thought it should be presented to the committee of the whole, and if it is voted down now it won't hurt my feelings any. I think the thing ought to be preserved, and I think Mr. Dupee himself would agree it ought to come out of there when he has opportunity to discuss it.

Mr. DEYOUNG (Cook). Mr. Chairman, as I understand the force of the argument of the gentleman from Champaign, I have always understood that the two methods, special assessment and special taxation of contiguous

property, are incompatible, to say the least, that they are different modes of assessment. Either may be combined with general taxation to inaugurate an improvement, but because they are inconsistent you cannot combine in the same proceeding special assessments and special taxation of contiguous property. Now, if the gentleman from Champaign seeks to confer by constitutional mandate upon the average village board and council throughout the State a rather broad power to exercise the high power of special taxation in lieu of special assessment, it will deprive the property owner of a cherished as well as a necessary right.

Mr. GREEN (Champaign). Let me ask you, you don't think that that would in any way give them any more authority than they have now, do you?

Mr. DEYOUNG (Cook). I think it would, yes, because it would substitute the mode of special taxation, if not limited to contiguous property, for special assessment generally, because it is a more summary method of procedure, as is manifested in the Act of 1875, subsequently amended for the laying of sidewalks. Now, we all know this illustration, where practically the whole cost is thrown in most cases probably upon contiguous property, that is the average sidewalk; but if you are going to open the door so that a city council may have the right to inaugurate improvements by special taxation without a preliminary hearing, as is usually the case, and a confirmation in a court so that the taxpayer and the property owner may have a right to be heard, I am afraid we are departing from some necessary safeguards.

Mr. GREEN (Champaign). Would that be more dangerous than to give them the power to assess at all against contiguous property entirely without even going back?

Mr. DEYOUNG (Cook). Well, there are some practical situations that protect the property owner. For instance, a careful city council will not embark upon a very expensive sidewalk improvement under the Act of 1875, because the first chance that property owner has to be heard is on the application for order and judgment of sale, so that frequently, if it involves a very large sum of money, the city council will be so well advised to proceed by special assessment rather than special taxation of contiguous property.

Now, if you are going to take away the limitation of contiguous property, unless you have the check of their failure to sell bonds to contractors, you give to a city council a very broad power without the checks that are necessary to have a hearing and have a court upon competent testimony pass upon the district that may be benefited, and it seems to me it would be unfortunate to strike out the words "contiguous property," as I think it is likewise unfortunate to have stricken out the word "or" by special taxation of contiguous property, which is in the present Constitution.

I think section 6 of the committee's report, which omits the word "or" after the words "special assessment" should be restored, and at the proper time, if it is not now proper, I shall make the motion to restore that word "or" so that we may have the clear distinction as is true in the adjudications, between special assessment and special taxation. And you cannot combine the two in the same proceeding. The court has held so time and time again, and you can readily see the theory back of the two is quite different.

CHAIRMAN WHITMAN. The question is on the adoption of the amendment of Delegate Green of Champaign.

(Amendment lost.)

Mr. DEYOUNG (Cook). Mr. Chairman, I move that the word "or" be inserted before the words "by special taxation of contiguous property" in line 3 on page 4 of the report pending, for the reason that I have suggested. I think the two ought to be kept distinct and separate, and should not be confused. That restores it to what we find in the present Constitution, that special assessment, or by special taxation of contiguous property, or otherwise. If you strike out the word "or," it evidently contemplates the invoking of these two methods, manifestly different, and as I am convinced incompatible in the same proceeding. I think we ought to get back to that.

Mr. SUTHERLAND (Cook). Mr. Chairman, do I understand the delegate from the southern district objects to a greater degree of public benefit taxation in public investments than is now possible under this section of the Constitution?

Mr. DEYOUNG (Cook). I may say in answer to the distinguished delegate from Cook, that that is not my objection at all, but I fail to see how you can proceed—for instance, take a given improvement, whether it be for paving or what it may be—to proceed in part by special assessment, where you have a certain area, and as to part merely taxation of contiguous property where you levy the assessment before you go into court. It cannot be done, it seems to me, just as the court has held over and over again. The two are utterly incompatible.

Mr. SUTHERLAND (Cook). The difference then is that the objection is to the possibility of combining the special assessment and special taxation?

Mr. DEYOUNG (Cook). In the same proceeding.

Mr. SUTHERLAND (Cook). In the same proceeding?

Mr. DEYOUNG (Cook). Yes.

Mr. SUTHERLAND (Cook). And not against combining special assessment and general taxation for public benefit or special taxation and general taxation?

Mr. DEYOUNG (Cook). Not at all. It is well understood that you may unite in the same proceeding and must necessarily in special assessments in many cases, special assessments with general taxation, and always in special taxation for contiguous property, the burden may be more upon contiguous property, and the city council in its judgment may have determined that portion of it should be paid by special taxation. There is nothing to prevent it, the two ought to go together, but to unite the three in a single proceeding is quite a different matter.

Mr. SUTHERLAND (Cook). Mr. Chairman, I may say that it was the intention of the committee, as I understand it, to provide, if possible, a combination of special assessment with general taxation, or possibly special taxation with general taxation. The combination of special assessment and special taxation, which the distinguished delegate from the southern district suggests, was never contemplated by the committee; that is my recollection.

Mr. DEYOUNG (Cook). Do you not think that the striking out of the word "or" might lead to that very conclusion?

Mr. SUTHERLAND (Cook). I think, Mr. Chairman, that it is open to the construction to permit a combination of any two of the three, possibly.

Mr. DEYOUNG (Cook). Yes, any two in three, or all three for that matter. Certainly any two of the three.

Mr. SUTHERLAND (Cook). Certainly any two of the three. I would perhaps doubt all three.

Mr. DEYOUNG (Cook). Well, any two of the three would be just as bad, and the objection would be just as valid to that as it would to the other.

Mr. HULL (Cook). What is the objection to combining a special assessment with special taxation?

Mr. DEYOUNG (Cook). I thought that I had tried to present the objection to it, that the theory behind the two proceedings is entirely different, and that you cannot very well combine them in administration, or in proceedings in the same proceeding. The theory behind the two modes is entirely different, it is essentially different.

(Amendment carried.)

Mr. SUTHERLAND (Cook). Mr. Chairman, I now renew my motion for the adoption of section 6 of the revenue article of the new Constitution as amended.

CHAIRMAN WHITMAN. The motion now is on the adoption of section 6 of the report of the revenue committee as amended.

(Section 6 as amended carried.)

CHAIRMAN WHITMAN. Please read section 7, Mr. Clerk.

(Section 7 read.)

Mr. SUTHERLAND (Cook). Mr. Chairman, I now move the adoption of section 7 as section 7 of the revenue article of the new Constitution, to

get it before the house. Now, Mr. Chairman, an amendment will have to be made to section 7 to insure that no authority is given for the levy of income taxes by local governments. I, therefore, Mr. Chairman, to get the section in this particular form before the committee, will move the adoption of the amendment which I will ask the secretary to read.

AMENDMENT No. 37.

Amend section 7 by inserting in line 4 after the word "taxes" the parenthesis and words "(but not tax upon income)" and in line 5 after the word "taxes" the parenthesis and words "(but not tax upon income)".

Mr. SUTHERLAND (Cook). Now, Mr. Chairman, I will simply state now that the purpose of those two amendments is to make it clear that no city, town or village shall ever have authority to assess income taxes, which are always to be assessed by the State. I will explain them more as I go into a discussion of this section.

This section, Mr. Chairman, is to take the place of sections 9 and 10 of the present article and to retain all of the important limitations that are in those sections, and to remove a certain limitation which has been found to be working badly, and which it is held may glance in the direction of taxation which is not highly recommended by tax authorities.

Section 9 reads: "For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same."

Now, Mr. Chairman, we have already in section one provided for a somewhat different system of taxation, so that the phrase, "such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same," can no longer apply as it did under the ad valorem system solely. Furthermore, Mr. Chairman, the phrase, "within the jurisdiction of the body imposing the same" encourages, even though to a limited extent, the principle of local option in taxation, which, it is well known, is a stepping stone to the single tax. Furthermore, that phrase, "within the jurisdiction of the body imposing the same," has had certain practical difficulties.

For example, a member of the State Library Board appeared before our committee and pointed out that in one territory, I believe it was in the city of Champaign, it was desired to levy taxes under the county library law, in support or maintenance of a library, which I believe was built by the Carnegie foundation. There is another case in Will County where it was desired to apply the proceeds from the county library tax to a part maintenance of a city library in order to have an effective and adequate institution centrally located in the county and serve the entire county. It is entirely impossible to meet such a situation as that with this language in the Constitution. For those reasons that language was eliminated.

Section 10 reads: "The General Assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof for corporate purposes, but shall require that all the taxable property within the limits of the municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation."

Now, Mr. Chairman, it was the aim of the committee, in so far as possible, to preserve the language of the present Constitution where such language did not conflict with changes that are now apparently necessary. It was necessary, however, to change the limitation that the General Assembly shall not impose taxes upon municipal corporations or the inhabitants or property thereof for corporate purposes, inasmuch as we have made possible a state wide, state collected income tax, with the understanding that the proceeds from that tax should be in large part redistributed to the local districts from which they arose, and obviously that would be a collection

and an imposition of taxes upon the property within a municipality, in part at least for corporate purposes. Therefore that language was changed.

Nevertheless, the principle, so far as it applies to the present method of taxation, namely, taxation by valuation, was retained, and the language now reads: "The General Assembly shall not impose taxes by valuation," that is, they shall not impose taxes under the present system, "or as may be taxed by valuation hereafter, upon the municipal corporations or the inhabitants thereof, or the property therein"—I think we made that language just as simple as possible, made it clearer—"for corporate purposes, but all municipal corporations shall be required to levy and collect taxes." Through inadvertence it was allowed to stand that way, but it was open to a possible construction that standing that way it might refer to the authority to levy and collect income taxes. So the amendment which the clerk has read was drawn up.

I now move the adoption of the amendment.

CHAIRMAN WHITMAN. Gentlemen, you have heard the amendment. Is there any discussion on this amendment?

(Amendment adopted.)

MR. SUTHERLAND (Cook). Mr. Chairman, I now move the adoption of section 7 as amended by this committee as section 7 of the revenue article of the new Constitution.

(Section 7 as amended adopted.)

MR. SUTHERLAND (Cook). Mr. Chairman, pending the reading of section 8, I would suggest that the pages be asked to distribute the printed amendment, which is proposal number 378, introduced by the distinguished delegate from the Fifth district of Cook County on the day that this article was first taken up in this committee.

CHAIRMAN WHITMAN. What are these, the amendments of Senator Hull?

MR. SUTHERLAND (Cook). That was the amendment introduced by Senator Hull referring to the financing—

MR. HULL (Cook). They are on the desk.

CHAIRMAN WHITMAN. Well, we are not yet to the consideration of section 8.

MR. SUTHERLAND (Cook). I thought it might be well to have them before us while the section is being read, so that it would not interrupt the discussion on that section.

CHAIRMAN WHITMAN. The clerk will please read section 8.

(Section 8 read.)

MR. SUTHERLAND (Cook). Mr. Chairman, section 8 is identical with section 12 of the present Constitution, except that this paragraph which appears at the end of section 12 does not appear in section 8, namely, "This section shall not be construed to prevent any county, city, township, school district, or other municipal corporation from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this Constitution in pursuance of any law providing therefor."

That applies, Mr. Chairman, to bonds which have been issued in excess of the new limitation established in 1870, and is considered by the committee to be obsolete at this time, and not necessary to include in the new Constitution.

MR. DAWES (Cook). Is there not another objection? This section provides that the taxes shall be levied sufficiently to pay all such indebtedness as it falls due, and also to pay the interest on such debt in equal annual installments.

MR. SUTHERLAND (Cook). That is correct, Mr. Chairman. I apologize, and I would like to yield to the distinguished delegate from Cook to present the reasons for that important fiscal provision which we had inserted. I had forgotten that we had inserted it, and it is a most valuable provision, and I would like very much to have the delegate from Cook present it to the Convention if he would do so.

MR. DAWES (Cook). Mr. Chairman, I don't know that it needs extended explanation. It was thought by the committee to create such a

method of paying up their indebtedness that it would lay the foundation of a better financial system, and it was the judgment of the committee that it would be an improvement upon the provisions in the Constitution of 1870.

Mr. HULL (Cook). That is the general practice now, is it not, and you are simply putting it into the Constitution?

Mr. DAWES (Cook). It is my understanding that that has to some extent been the practice. I think it ought to be made uniform.

Mr. HULL (Cook). May I ask the gentleman from Cook, Mr. Sutherland, a question, however, about this section? It provides a definite limitation of five per cent upon the value of the taxable property within the limits of the taxing authority. Now, by section one of the article which we have approved, we made it possible to assess and collect a tax upon the income from intangible values. If the legislature should pass an income tax of that kind in lieu of taxes by valuation upon intangibles, a considerable value would be taken, would it not, from the value of the taxable property within the limits of some particular taxable jurisdiction in which the five per cent debt limit might be very much less than it is now, is that not so?

Mr. SUTHERLAND (Cook). There would be some jurisdictions where the proportion of intangible valuation to the total valuation in the State would amount to about seven per cent. That was the figure, was it not? I think I remember that figure quoted by the distinguished delegate from McLean. I think that there is something in that point, Mr. Chairman. At the same time, Mr. Chairman, it would still give the General Assembly power to double the present limitation of the debt incurring power of the municipalities, because that limitation is now based on the assessed value, which is one-half of the true value, and by making the assessed value the full value and true value, you would double the present debt incurring power, and it would far more than make up for the slight shrinkage due to the removal of intangibles from the general tax law.

Mr. HAMILL (Cook). Mr. Chairman, may I ask the gentleman a question? Is the proposed section not also a variation from the present section of the existing Constitution by the addition of the first words, "except as otherwise provided in this Constitution?"

Mr. SUTHERLAND (Cook). That is true, Mr. Chairman.

Mr. HAMILL (Cook). What is the purpose of those words?

Mr. SUTHERLAND (Cook). The purpose of those words was with the idea that there might be added a provision such as Senator Hull will presently offer, or that there might be a separate article put in with reference to municipalities, cities, and that article might have some slightly different provision with reference to the limit upon the indebtedness of those bodies.

Mr. HAMILL (Cook). This was put in then to cover something that might come in the future and not anything that we have already adopted?

Mr. SUTHERLAND (Cook). Yes, sir.

Mr. HAMILL (Cook). I see you have also left out the word "city" under the theory, I suppose, that it is covered by "other municipal corporations?"

Mr. SUTHERLAND (Cook). Yes, sir, that was the thought.

Mr. JOHNSON (Bureau). In further answer to that, Mr. Chairman, as I recall now, it has been some six or seven months since we had that up for consideration, but in the county act, as I recall it, the provision is made that if the county is adopted as the unit for road building, that then there is a provision that there may be an additional tax levied, I do not just recall the amount, for the purposes of covering that additional expense, provided it is submitted to the people on a referendum. That is included in there.

(Section 8 adopted.)

Mr. HULL (Cook). Mr. Chairman, when this committee first was called together last week for the purpose of considering the report of the revenue article I presented some proposed amendments for the purpose of having them printed. They have been printed, and I believe have been distributed. I don't think they were introduced into the record. For the purpose of

bringing these amendments together, and I think they should be considered practically as one amendment, I now offer and ask to have the clerk read them, and then move their adoption.

AMENDMENT No. 38.

Amend proposal No. 378 by adding thereto, three new sections to be known as sections 9, 10 and 11, which are as follows:

SEC. 9. For the purposes (or any one or more of them) of acquiring, constructing, owning, leasing, maintaining, and operating such income-producing properties as it is by law authorized to own or operate (or to own and operate) for the supply of transportation, communication, light, heat, power, water and other public utilities (or any of them) any city or other municipal corporation may issue interest-bearing bonds, in excess of any limitation of indebtedness otherwise prescribed in this Constitution, to an amount not at any time exceeding in the aggregate fifteen per centum on the full value of the taxable real property therein, to be ascertained by the last assessment for State and county purposes previous to the issuance of such bonds. Any city or other municipal corporation issuing such bonds shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest thereon as it falls due and also to pay and discharge the principal thereof within thirty years from the date thereof.

SEC. 10. Unless otherwise provided in the Act of any city, or other municipal corporation, authorizing the issuance of any bonds for the purpose of financing any income-producing public utility, such bonds shall be held to be issued in excess of the limitation prescribed by section 8 of this Article. Each issue of bonds, or of other securities, by any city, or other municipal corporation, for the aforesaid purpose, shall be payable in substantially equal annual installments of principal and interest combined, beginning not more than five years from the date thereof. No such bonds or other securities shall be issued until the proposition therefor shall have been consented to by a majority of the legal voters of such city or other municipal corporation voting upon the question.

SEC. 11. Any city, or other municipal corporation, issuing bonds in excess of the limitation of indebtedness prescribed by Section 8 of this Article, for the purpose of financing any income-producing public utility, shall, not less than four months prior to the time when any tax for the payment and discharge of the principal of and interest on such bonds, or of the principal of and interest on any other indebtedness incurred for the purpose of financing the same utility, shall by law become collectible, deposit, or cause to be deposited, with the treasurer thereof, out of the gross earnings of the utility for the financing of which indebtedness to be discharged by such tax was incurred, a sum equivalent in amount to such tax, the funds so deposited to be used solely for the purpose of paying and discharging such indebtedness, both as to principal and interest, as the same falls due. To the extent that funds to be used for the payment of any such indebtedness, as to either principal or interest, shall be deposited with the treasurer of any such city or other municipal corporation prior to the collection of such tax, such tax shall not be collected, but no subsequent loss or misappropriation of the funds so deposited shall relieve such city or other municipal corporation of its liability to pay such indebtedness.

Any city or other municipal corporation issuing bonds in excess of the limitation of indebtedness prescribed by Section 8 of this Article, for the purpose of financing any income-producing public utility, shall thereafter (irrespective of the subsequent amortization of the debt evidenced by any bonds or other securities whatsoever, issued for the financing of such utility) establish and maintain such rates or charges for the service supplied as are necessary to provide sufficient revenue (in addition to amounts required for the payment of the principal of and interest on all outstanding bonded or other indebtedness incurred for the financing of such utility) to pay and discharge at least all costs and expenses involved in or incidental to the

ownership, operation, and maintenance of such utility, including expenditures and reserves for repairs and renewals necessary to maintain the properties in first class condition in every respect at all times.

The provisions of this section and of Sections 8, 9 and 10 of this Article shall be self-executing, but laws not in conflict therewith may be passed to facilitate their operation. Any taxpayer of any city or other municipal corporation owning or operating any such utility shall have the right to enforce all provisions of said sections by appropriate proceedings in any court of competent jurisdiction, but the right of such taxpayer with respect to the enforcement thereof shall not be exclusive. It shall be the duty of courts of general jurisdiction to enforce all such provisions and for such purpose they shall have all necessary powers, including the power to control and regulate the service supplied by any such utility.

Mr. HULL (Cook). Mr. Chairman, while the amendment is presented in several separate sections, it goes together, and I shall therefore ask your indulgence to separate the proposition, showing what it contains briefly, and then we may go to the separate sections.

I will say first that this proposal was before the Committee on Chicago and Cook County and was discussed at considerable length, but was never put to a vote in the committee. It was felt it was something that concerned every city of the State, and it might probably be considered before the Committee of the Whole as a part of the revenue article.

The purpose of the several sections of the whole proposal is substantially this, to permit cities to own and operate municipal and public utilities for the convenience of its people, and to furnish a guarantee to every community that goes into municipal ownership and operation that such utilities shall be self-sustaining. It has a provision you will remember that if the revenues do not furnish a sufficient return so that out of such revenues the recurring interest and the indebtedness which its properties have, can be paid from time to time, if out of its earnings there is not sufficient to take care of these recurring obligations it will be possible for a tax payer to go into a court of general jurisdiction and get an order upon the municipality requiring it to raise the service rate to such a figure as will enable the utility in question to pay its operating expenses, and interest, as it accrues, to the proportion of the total principal which may be due in that year, and also to keep up the plant in a proper operating condition. That in brief is what the whole amendment, the various sections attempt to do. Let me repeat:

Authorizes any municipality to issue bonds; they make those bonds full faith and credit bonds requiring the levying of a tax for the purpose of the obligations as they become due; they then provide that the municipal authorities shall set aside out of the earnings enough money to pay off these recurring obligations, and when this money is set aside, for the purpose of paying these obligations, that the tax levy shall be paid and the payment shall be made purely out of those earnings, and if at any time the utility does not out of its earnings have enough in the banks to take care of these recurring obligations, then a tax payer may go into a court of general jurisdiction and get an order on the municipality to raise the service rate to such figure as will enable the utility to pay these charges. It furnishes a motive therefore for reasonable sufficiency in the operation of the utilities. If any administration going into the operation of a utilities allows the charges of the utility to become so heavy that out of its earnings there is not enough money to pay the obligations that accrue from time to time it will be subjected to this mortification, before the tax payers or before the voters of the city, that some one can go into court and get an order on the city requiring it to raise the service rate, so there is a political motive for the efficient management of the property. I know how some of you feel about the municipal ownership and operation, so far as I have been able to test out my committee and the opinion on the floor here. There are some men who are opposed in principle to municipal ownership and operation of any public utility. They see the wastefulness of the public manage-

ment of its business, and they do not want the city going into any such business, they feel it is an invasion of the proper sphere of private enterprise. Then there is another group, another public opinion, that private capital being cut into, in the monopoly of business for public convenience, and the city making money out of it, they are of the opinion that the public is using that utility, at a great expense of the consuming public, when similar service can be given a great deal cheaper. Then there is another group that feel positively that the public should own their plant under any conditions, and they are the municipal ownership men.

Then there is perhaps another group, and I may be in that group myself, who hold no opinion either way on the general principle of municipal ownership and operation, but feel that it is in every individual instance a question that might be determined by the particular circumstances which are presented. We have in Chicago our waterworks, perhaps it could be operated better by private enterprise, I am not sure of that, whether it could or could not, but I do not believe anybody would ever want that that water plant go back in private hands. It is none the less a public utility, but in many other communities, you have some public utilities owned and operated by the municipality of the same character. Now in my mind, in each and every instance the question as to whether municipal ownership is a proper thing must be determined by the particular facts in the situation. Nevertheless there is a strong public opinion that is asking for municipal ownership and operation, and the utility question is the most vicious question in this State, and unless we can go to the voters with some reasonable plan that will permit municipal ownership and operation I think we are going to incur the hostility of a great big public, and I think we ought to go to the voters with some plan that will permit municipal ownership and operation. This plan is presented to you because it seems to me it has some reasonable safeguards against some of the features of the municipal ownership and operation that are most seriously feared by conservatives.

In the first place it has a check against going into the general tax levy to make up deficits against operations, and by virtue of that very fact it has a political feature, or furnishes a political motive to a municipality to operate their plant with a reasonable business efficiency.

That is the general statement I wish to make with reference to this entire proposal, and I would like to offer some of the provisions in detail.

Mr. REVELL (Cook). I just wish to ask you specifically, you referred to the waterworks in Chicago; there are some other things, we will say in Chicago, you think ought to be municipally owned?

Mr. HULL (Cook). Oh, I don't intend to express any personal opinion upon the question as to what public utility ought to be municipally owned and operated, I will be perfectly frank with you, Mr. Revell, I would be reluctant to see our city go into the ownership and operation of a transportation system, if that is what you have in mind. But while I may be reluctant about that thing, I propose so far as I am a member of this Convention to meet the issue squarely before the public of the City of Chicago and before the public of this State and say to them if you want to go into municipal ownership and operation we will give you the opportunity, and we will provide some method by which any such municipal ownership and operation experiment will be protected, and will undertake to especially safeguard against the two most serious evils which are feared by those who oppose municipal ownership and operation, one the going of the public funds into the general gross fund to make good deficits in operation which are the result of wasteful and extravagant political methods in the running of the business, and that will furnish necessarily, a political motive to run the enterprise with reasonable efficiency.

Mr. SIX (Pike). Have you considered the proposition of serving a group of municipalities, that may be at the end of a great center, for instance—this I take it cannot serve or furnish service outside of the particular municipalities that levied the tax or issued the bonds? Now, there are no such lines in our State, where the regard to the service particularly that these

utilities mentioned furnish, how would you serve that group of communities outside of the principal municipality?

Mr. HULL (Cook). I do not think that furnishes any difficulty, and if there is any such difficulty, it can be remedied by statute. The difficulty you are battling with is the question of the corporate power of the municipality to go outside of its corporate limits with the service which it is furnishing, and that can be remedied by what we have now in the statutes, authorizing municipal ownership and operation, passed by a former administration, but the inability of any municipality to own and operate plants under that Act has grown out of the financial embarrassment that exists, and the inability to raise money to go into those enterprises.

Mr. SIX (Pike). Would it be possible for some corporation to buy this service within the municipality and furnish it at a different price outside of the territory taxed?

Mr. HULL (Cook). Whatever it would be possible for it to do would be determined not by this constitutional provision, which is entirely a permissive provision, but it would be determined by the act of the legislature which gives that municipal authority to go into this business.

Mr. REVELL (Cook). Just so as to get the Senator's viewpoint, of course, I know more about Chicago, Senator, than I do about other municipalities throughout the State, and therefore, it is more likely for me to think about that. Is it your opinion that Chicago could make a success of any other of its utilities? I am asking you in order to present one additional question; any of its utilities, such as the street car for instance?

Mr. HULL (Cook). I don't know whether it is possible to make a success or not—

Mr. REVELL (Cook). If you do not believe it, then why—

Mr. HULL (Cook). Just a minute, sir, let me answer your question. It might not be a very effective transportation system, I don't know whether it would be or not, I think this constitutional provision has all of the guarantees you can possibly have in this convention, towards making it a success. What I do know in the City of Chicago now is that we have a transportation system situation that is very, very bad, and that is a constant source of irritation to the people who use it, and that is a political sore in the City of Chicago and will be for a long time to come. I do not believe you would have any situation under the provisions of the statute and ordinances and under this Constitution, if we ever adopt it, that you would ever have any situation any worse than you have got in the City of Chicago. That might not answer your question.

Mr. MIGHELL (Kane). I am very much in sympathy with the proposal you have and it is my intention at the present time to vote for it. The key to the proposal is that the individual tax payer can insist on a higher rate in case the revenue is not sufficient to meet the operating expenses, interest and principal of the purchase. The one phase that bothers me is this: Suppose the charges made for this service have reached the point where they produce all the revenue possible and higher rates would be less income, how are you going to meet that situation?

Mr. HULL (Cook). Your question is a very pertinent one and it is a fair question, and there is no way of meeting that situation. Your question is simply this, supposing a utility does not operate with sufficient economy so that the city is unable to set aside at a proper time a sufficient sum to take care of the serial indebtedness, and interest, which accrues, and some tax payer goes into a court of general jurisdiction, which has jurisdiction over his request, and asks for a raise in service rate, and the court orders a raise in service rate. After the property is operated under that order for some time it is found that the earnings are still not sufficient to meet the accruing obligations, that is of course a possibility, and that is a possibility which must be recognized. I don't know of any way by which you can cover that possibility, but so far as the service rate can be made by their regulation to meet all of the obligations on municipally owned and operated utilities, this constitutional provision will make them applicable,

but there is of course that possibility which you suggest, but as long as you have utilities, however, as we have them, paying dividends to their stockholders as well as interest on their bonds, it seems to me it is possible out of what is now dividend to raise revenue enough to pay interest, inasmuch as they are paying interest on the bonds now.

Mr. HAMILL (Cook). This provision as I understand it, confers directly from the Constitution to the city the power of acquiring and operating utilities.

Mr. HULL (Cook). It does not confer the power to own and operate.

Mr. HAMILL (Cook). It confers the power to do the financing where it has the power to own.

Mr. HULL (Cook). I don't know that I understand the question you are asking, they have the corporate power to do this thing.

Mr. HAMILL (Cook). No I say, that this provision if I understand it correctly, directly confers on the city the power of financing any public utility it now has the power to acquire.

Mr. HULL (Cook). It gives them the power to acquire debts sufficient to finance itself in all these difficulties.

Mr. HAMILL (Cook). Has it occurred to you as a possible alternative, that the Constitution might authorize the General Assembly to confer the power on the cities rather than to confer it directly? I will say this, before you answer the question, the plan may prove unwise, and if the power is in the General Assembly it can change it at any time, but as you grant the power directly, then it is beyond the power of the General Assembly to destroy it.

Mr. HULL (Cook). You have to have constitutional provisions to permit the General Assembly to give this State additional power?

Mr. HAMILL (Cook). I quite agree with you on that, but supposing it was made to read this way for the purpose of acquiring, conducting, owning, leasing, maintaining and operating such income producing properties as it is by law authorized to own or operate for a supply of transportation, communication, lights, heat, power, water and other public utilities, the General Assembly may authorize any city or other municipal corporation.

Mr. HULL (Cook). Simply putting in there an authority to the General Assembly instead of leaving it as a direct authorization by the people as to the Constitution?

Mr. HAMILL (Cook). Yes, I was wondering whether that alternative had suggested itself to you?

Mr. HULL (Cook). It had not suggested itself to me and it is a very interesting suggestion and if the Convention would prefer to do it that way I will be satisfied. I simply want this Convention to meet fairly and squarely the issue of municipal ownership and operation.

Mr. MILLER (Cook). I think perhaps you have covered this too, it is clear is it not, that this will not insure the self support of the utility?

Mr. HULL (Cook). No, except it furnishes a political motive to an administration to keep the charges down, and to therefore handle the property with some degree of efficiency. There is no absolute guarantee that can be given at all. I answered your question I think when I answered Mr. Mighell, did I not?

Mr. MILLER (Cook). No, that is to say there is always a limit beyond which rates cannot be raised with the result of producing increase in revenue.

Mr. HULL (Cook). Yes, that is true.

Mr. MILLER (Cook). And that limit has been reached in the last two or three years, by many public utilities throughout the country, that is to say, they have raised the rate to a point where the net income has fallen instead of rising, isn't that true?

Mr. HULL (Cook). I believe that is true, and I am not particularly familiar with that experience, but I believe there has been some such experience.

Mr. MILLER (Cook). So the result—I am not arguing against the proposition, I am inclined to favor it at the present moment—but the city

may invest its funds in an enterprise of this kind, a public utility, and if it is a street car line or any other utility where there is a great expense in labor, as distinguished from a water works where the labor item is small, the municipality might by reason of the wages, put the utility in a position where no increase in rate would meet all of the expenses and the result would be that taxation must be resorted to to pay the bonds. That is all a possibility, isn't it?

Mr. HULL (Cook). That is a possibility, yes, sir.

Mr. REVELL (Cook). Just one additional question: Is it possible in connection with your report on Chicago and Cook County, we are likely to have a very exhaustive consideration of the matter of municipal ownership?

Mr. HULL (Cook). This proposal—

Mr. REVELL (Cook). The Chicago and Cook County proposal, whenever your report comes in.

Mr. HULL (Cook). Not any such consideration as this covers.

Mr. REVELL (Cook). If we did have any exhaustive consideration of it it would be merely placing the cart before the horse to have any discussion now.

Mr. HULL (Cook). It is not placing the cart before the horse first, this is something that properly belongs to the revenue under revenue article.

Mr. REVELL (Cook). I understand that.

Mr. HULL (Cook). Which if it concerns us in Chicago, it also concerns every municipality in the State, and is one in which the people from other parts of the State are interested.

Mr. LINDLY (Bond). Why do you say, in line nine, where it says exceeding in the aggregate fifteen per centum on the full value of the "taxable real property" therein. Why do you say real property there?

Mr. HULL (Cook). Because it was felt that real property furnished a more stable basis on which to figure the additional indebtedness because of the Revenue Article, which in the first section took out intangible property, or made it possible to take out intangible property from the properties which valuation—or a tax by valuation is levied.

Mr. LINDLY (Bond). But the first section of the Revenue Act did not exclude tangible personal property, in the city, and which is a vast amount of property. It coupled tangible personal property with real estate. Tangible personal property is a vast amount of the property in the city.

Mr. HULL (Cook). But it was thought the real property furnished a better basis of figuring indebtedness as compared with the total value of the real estate and personal combined. I don't know what the figures are throughout the State, but I am informed that in the City of Chicago, there is about \$2,200,000,000.00 worth of real estate, and of real estate and personal there is about \$3,300,000,000.00. So it would simply be a question, if we were taking the personal property and the real estate, as a basis for issuing bonds, it would be a matter of making it ten per cent on the total value of the assessed property or fifteen per cent on the real estate alone. We took the real estate on account of the fact it is a more certain amount.

Mr. LINDLY (Bond). I simply speak of this on account of the cities down the State. Perhaps the valuation of the real estate would not be sufficient to enable them to do this, but with the addition of the tangible property it would. I think it is fair.

Mr. HULL (Cook). When this was put in it was not known what would happen to Section One of the Revenue Article with reference to tangible personal property, as well as intangible personal property, and it was thought that it might go out altogether, so they fixed it at first at fifteen per cent on real property.

Mr. LINDLY (Bond). Since it did not go out, could you make it on tangible property too?

Mr. HULL (Cook). Making it ten per cent on all real and personal property, reducing the amount of your authorization?

Mr. SUTHERLAND (Cook). Wasn't the fifteen per cent on the real property figured at what would produce approximately, at what the prices

were several years ago, would be sufficient to make a start and to begin running a street railway?

Mr. HULL (Cook). Of course the amount in the first place, necessary to meet the situation developing in Chicago was considered.

Mr. GILBERT (Jefferson). The provisions of the statutes now provide and authorize a five per cent indebtedness on full valuation of real estate?

Mr. HULL (Cook). It says on the assessed value, not the full value.

Mr. LINDLY (Bond). The assessed value of property?

Mr. HULL (Cook). Yes, the assessed value of property.

Mr. GILBERT (Jefferson). Does this authorize an additional fifteen per cent of indebtedness, based on the real estate?

Mr. HULL (Cook). It does.

Mr. GILBERT (Jefferson). That would make the municipal indebtedness, the authorized and municipal indebtedness, twenty per cent instead of five per cent as heretofore?

Mr. HULL (Cook). It does. Let me take this proposal up section by section, if you will. I want to call your attention to Section Nine.

Mr. REVELL (Cook). Now if the Chairman please, it is not necessary with a view of cutting Senator Hull short on this matter, but I would like to make a motion—I will withdraw it if the gentleman thinks this is a proper time to take up the general question—my motion would be that the consideration of this matter be deferred until after the report is submitted of the Chicago and Cook County Committee.

Mr. SUTHERLAND (Cook). Possibly a word of explanation from a member of the Committee on Revenue and Finance will be in order here, in order that the propriety of discussing this matter at this time may be made clear to the delegate from Cook.

It was thought that this matter affected not only the City of Chicago but down state, and from the delegates down state we had learned that probably the down state tax payers desired to have an opportunity of running their utilities on a business basis quite as much as the tax payer in Chicago would desire them run on the business basis, if run at all, and that properly it was a matter involving the finances of utilities affecting the municipalities of the whole State, and the matter of extending the credit of municipalities in a certain direction, in a specified way that is not now provided for, and was not contemplated when the present Constitution was drafted and the Revenue Committee thought it was a matter that might very well be taken up in that connection. It was not ready to be considered at the time the Revenue Committee presented its report, last July, so it was agreed between the Chairman of the Revenue Committee and the distinguished delegate from the Fifth District that it should be handled in this way, and that was the recommendation of the Chairman of the Committee.

Mr. REVELL (Cook). Mr. Chairman, could I have the floor for a moment, I don't want to cut in on Senator Hull at all.

Mr. HULL (Cook). I want you gentlemen to understand what you have in this proposal here.

Mr. REVELL (Cook). The point of my objection is this, I don't know of any agreements which have been made in any committees, in regard to what you think might be done with such propositions, I simply know that at the time that the question of municipal ownership actually comes up it is going to receive some attention in this Convention, and I doubt very much if it is time to go into it at any length now, and we waste time by going into this matter and trying to tie up this Revenue bill with it; now, in the face of that statement you desire to go on I will withdraw my motion.

Mr. HULL (Cook). I think the Convention will save time by tackling the proposition now. I wish to call your attention to the last sentence in Section Nine, "any city or other municipal corporation issuing such bonds shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest thereon as it falls due

and also to pay and discharge the principal thereof within thirty years from the date thereof."

The provisions of Section Eight that we have considered provides for the payment of debts within twenty years from the time they are incurred. In this particular class of debts it is provided for their payment in thirty years. It was felt that the amortization of the cost of the enterprise in bonds would require thirty years, if it was of any size, unless you wanted to load the enterprise with a service charge that would make it excessive.

Mr. Chairman, I want to go over all of these items, because the amendment must be acted on in its entirety, but I would like to take them up separately.

CHAIRMAN WHITMAN. Proceed.

Mr. HULL (Cook). I want to call your attention to the fact that in Section 10 "unless otherwise provided in the Act of any city, or other municipal corporation, authorizing the issuance of any bonds for the purpose of financing any income-producing public utility, such bonds shall be held to be issued in excess of the limitation prescribed by section 8 of this Article."

In other words, if they have a margin of debt incurring power under Article 8, it would enable them today in a municipally owned and operated enterprise, to finance any such enterprise and if they drew on that power they would still be held to be operating under this provision unless they specifically say that they are not operating under it; and if at any time they incur any indebtedness under this particular proposal, even though a part of the indebtedness, which they may incur for the purpose of financing any utility, may be incurred under their general debt incurring power, they come under the guarantee of this particular proposal, and they will have to operate within the provisions of this proposal with respect to setting aside the money or paying the interest, and paying the principal, and they will be subject to the rights of a tax payer to compel them to charge a service charge that will make it a self-sustaining plant if it is possible to make it a self-sustaining plant.

You will notice in the last sentence of Section 10 the words "other securities" is used. It is used with that very thing in mind. "Other securities and bonds may be issued under this proposal" may be issued as a part of the means of financing any such enterprise, but even in that case as long as they are using one dollar of the money acquired under the debt incurring power given them by this proposal they will have to operate under this proposal and be subject to the checks which this proposal provides. In that last sentence you will notice also that no bonds or other securities can be issued for any such proposition until the proposition shall have been consented to by a majority of the legal voters of such city or other municipal corporation voting upon the question.

Now section 11 is the section which provides for the setting aside out of the earnings of the utility a sufficient sum to pay and to charge the interest obligations and the obligation upon principal which is becoming due every year. I don't think that calls for any further particular explanation.

Mr. HAMILL (Cook). Is the amount required to take care of the matured obligation not deposited with the treasurer out of the earnings, the taxes collected?

Mr. HULL (Cook). That is right.

Mr. HAMILL (Cook). Suppose it was deposited with the treasurer and diverted to some other purpose?

Mr. HULL (Cook). It is an obligation of the city and it probably would be paid.

Mr. HAMILL (Cook). How would you pay it?

Mr. HULL (Cook). You are raising a practical question as to the financing of these needs at that particular time and I suppose the city would have to go to the bank as it has in other emergencies and borrow money until the next year, when it could raise taxes and collect the money. It

would have to be taken care of just as any emergency is taken care of, by emergency methods.

Mr. HAMILL (Cook). And by taxation?

Mr. HULL (Cook). And by taxation. The provision with reference to taxation will give to the city of course a power to borrow at a less rate than could be borrowed otherwise, and that is one of the advantages of this proposal.

I said that section 11 needed no explanation, but at the last of section 11, the bottom of page 2, there is a parenthetical phrase, "Irrespective of the subsequent amortization of the debts evidenced by any bonds or other securities whatsoever, issued for the financing of such utility. I have assumed in this discussion the possibility that the city might under its debt incurring power borrow a certain sum of money, part of the money necessary to finance a public utility, and then borrow other money under the provisions of this proposal. If the city once has acted under the provisions of this proposal, no matter whether it has already paid off the money borrowed under the general borrowing power, it still continues under the guarantees of the proposal, suppose it borrows five million dollars under section 8 and then borrows the balance of the funds necessary to finance that enterprise and pay off the five million dollars under section 8, having once come under this proposal—I got my supposition wrong, suppose it paid off the money it borrowed under this article and the debt is still left which was borrowed under the general powers, the city is still under this article so far as the guarantees in this article are concerned.

Now, on page 3 in line 4, near the end of the line are the words "at least." This particular paragraph you will remember gives to the city—or requires the city to maintain rates sufficient to pay or discharge at least the cost and expenses involved in or incidental to the ownership, operation and maintenance of such utility. Suppose a plant is operated so successfully that it is able to pay the annual interest and a small portion of the principal which falls due from year to year, and it is also setting aside a little further on surplus, it is intended by this proposal to make it impossible, by this particular paragraph it is proposed to make it impossible for someone to say inasmuch as it is making a little money it must reduce its rates. It must not reduce its rates unless it is able to set aside money for repairs and renewals, and set aside money to keep up the plant in a successful state of operation.

The last paragraph of section 11 gives to the taxpayers the right to go into court and get an order in the situation which I have previously suggested where it is not operating at a sufficiently satisfactory basis, so that it is enabled to pay off the obligations which are accruing from year to year, and confer upon the court the power to issue these orders and also control the local services supplied by the utilities.

In brief these are the provisions of this general proposal. My motion was that the several additional sections to this proposal be adopted, and if it is required by the rules of this committee that these sections be adopted separately, I will make the motion that they be adopted separately.

Mr. TRAEGER (Cook). In section 10, line 7, "installments of principal and interest combined, beginning not more than five years from the date thereof." Do I understand if the city wants to avail itself of the right it can operate five years without paying interest or principal?

Mr. HULL (Cook). That was put in there with the idea in mind of allowing the construction to be done so that the utility would not be in the position of a utility not earning revenues and might not be able out of its earnings to pay the installments of interest and installments of principal. If the City of Chicago went into a great big enterprise, subways, etc., it would have to have the money to build the subways and do the work, but the part of the enterprise which was under construction would not be income producing in the immediate future, and the period of five years was left there to give a little elasticity to the proposition in that way.

Mr. TRAEGER (Cook). Don't you think that that might read, they might avail themselves of the non-payment of the principal for five years, but that the interest should be paid annually? Suppose you had a bond issue where the interest matures semi-annually, and the interest was not paid on those bonds, would the banks which took those bonds accept them, or wouldn't it cause a great deal of trouble in the City of Chicago? I just asked that question for what may come up in the financing. I think the interest ought to be taken up to be paid at maturity, for instance, if they are paid semi-annually, the principal might be paid at the end of five years, but I think it would be better to withhold the principal than withhold the interest.

Mr. HULL (Cook). Do you mean the bonds, some of them run up until the end of the period, thirty years?

Mr. TRAEGER (Cook). No, line 7, the principal and interest combined, beginning not more than five years from the date thereof.

Mr. HULL (Cook). Now I don't know whether this is going to answer your question, but when the matter was before our committee, objection was made to the form in which it was then presented because it required the principal to be made in equal annual installments during the life of the bond issue.

Mr. TRAEGER (Cook). That is the proper way.

Mr. HULL (Cook). Just a minute, the objection was made at the beginning of the period the interest charge was very heavy, while as the bonds were paid off from year to year, the interest charge would grow less, and that the provision as then presented to the committee would load the enterprise at the beginning with too heavy a charge and a better way would be to provide that the total of the bonds and the interest on the bonds should be divided up so as to form together equal annual installments or obligations.

Mr. TRAEGER (Cook). How are you going to meet the interest? Take that out of the operating cost?

Mr. HULL (Cook). Your question is to meet the interest in the first five years.

Mr. TRAEGER (Cook). Yes, my basis for that is I do not think any bank would carry that issue unless the interest was paid. Suppose I bought ten thousand dollars' worth of those bonds, serial bonds, interest to be paid semi-annually, when the interest is due I want the interest. Where are you going to take that money out of?

Mr. HULL (Cook). Interest for the period before the enterprise becomes an income producing enterprise is taken out of the principal. I know that is frequently done in large construction enterprises, enough is borrowed so that the interest before the period of productivity begins can be taken out of the amount loaned to construct the enterprise.

Mr. TRAEGER (Cook). If that can be done, that solves the problem.

Mr. HULL (Cook). Unless there is a further discussion I move the adoption of section 9.

Mr. WALL (Pulaski). It is a question in my mind, that has caused me considerable doubt, there is a very serious divergence, this has two very big propositions, one is a great economical proposition and the other is a great political proposition and both are very serious.

From an economic standpoint I would be very much against it, and from a political standpoint I would like to have it and I would like to give it my heartiest support.

Mr. HULL (Cook). Which is going to rule?

Mr. WALL (Pulaski). That is the question. Now it seeks here to turn over large amounts of property in the State, and if its activity and usefulness exerts in proportion to its value, practically it is property that is of greater importance to the people than any other class of property. The public utilities of the State that are privately owned would, if this is put into the Constitution, this amendment, I think under the present condition of the public mind, on a referendum, would rapidly become owned, operated and controlled by the various municipalities of the State. If that takes

place one of the questions is whether in twenty years from now it will be seen that the people have received better and cheaper service than they do receive now, under the competition of private ownership, that exists practically in all of the down State cities and in the City of Chicago. It must be remembered here first that if you bring these utilities into municipal ownership, that they thereby escape under the provisions of a section of this article in the Constitution, taxation, and that is no inconsiderable thing, gentlemen, to consider here. The aggregate amount of taxes paid by public utilities privately owned now amount to a great many million dollars in this State. There is a direct loss to the State, county and municipality.

Secondly, can these utilities be operated as cheaply and efficiently as they are under private ownership? I don't mean now to militate against the doctrine that the cities and villages of the country are making a mistake when under legislative enactment, they own water works and electric light system, or which in some instances are even operated more cheaply than they were under private ownership, but I speak now of all the public utilities such as are confronted here by these three sections of this amendment. Now is it not true, as a matter of common experience with all of us as observers of men and things, that wherever a municipality owns a utility that the wages necessary to operate that utility wants to come higher, the hours are inclined to become shorter, the efficiency of the employees is not so great, and has it not already in some of the smaller cities of the State built up political machines by making every man a political captain that is in the employ of the city, and that is running the utility to a point where it becomes thoroughly subversive to good municipal government, and an eyesore to the place where it exists.

Can the materials which go to build and repair these institutions be purchased as cheaply and as economically and as quickly as they can by private concerns? I say no, as a general proposition for two reasons; first, because as a rule the vendor is paid off in city orders or time payments or certificates, or something of that kind, and not in money as he now receives his checks from the private owner upon the delivery of the property.

Secondly, because for want of experience the officers of the municipality are not as able to go out into the market and buy goods as cheaply as the old experienced operator of these utilities that have owned them privately. I just present those as a few of the reasons why I believe that they cannot be operated as cheaply.

Now, if they cannot be operated as cheaply, if the labor that operates them becomes more independent with reference to its actions towards its employer, if they escape taxation, what will be the effect in twenty years?

Now we have no exclusive franchises in this State. No man who privately owns or corporation who publicly owns a utility and lets out its juice for its electricity or its water, is going to charge such enormous rates for any considerable length of time as will perpetrate a fraud on the people, for the reason that some other person will apply for a franchise and the competition always threatened.

Mr. LINDLY (Bond). Can you name to me one town in all of Southern Illinois that has competition in utilities?

Mr. WALL (Pulaski). Yes.

Mr. LINDLY (Bond). In the electric light?

Mr. WALL (Pulaski). Yes, Cairo—not electric lights.

Mr. LINDLY (Bond). Not electric lights?

Mr. WALL (Pulaski). Yes, Mounds, I will tell you, has two companies, the C. I. P. S. operates one system there, and the Cairo—

Mr. LINDLY (Bond). The Southern Illinois Light and Power Company has not got there yet?

Mr. WALL (Pulaski). The Southern Illinois Light and Power Company is in your county and it is not there, it is only three miles from where I live, and they are cutting each other's throats. And I will say to you now, there is not a human being in Mounds that wants to vote for a municipal ownership because they have this competition. Now on the other

hand, we come to the political question. It has recently been demonstrated beyond the peradventure of all doubt, where this question was practically or directly involved, that we had discussion here, that a large majority of the people in the villages, other things being raised up, and with the high prices of the late war, and the prices of these utilities going up, they are interested and anxious to be given an opportunity to vote on the question of public ownership of public utilities. Now this gives those people an opportunity, as suggested by Senator Hull. Shall they be deprived of it? Though they may make a mistake shall they be deprived of the opportunity, or as many of them as want it, the opportunity of ascertaining for themselves whether or not they want to put their municipality in debt fifteen per cent in addition to its other indebtedness, which may be five per cent at this time? And also incur this obligation simply because they want it regardless of the consequences? Shall this Convention bow to the recognized will of what I believe to be the majority and put it in this Constitution in order that they have an unlimited chance to adopt the principle?

I say this is a serious question. It is a question whether or not the Convention ought to say that notwithstanding that we believe this is not good economics, notwithstanding that we believe in twenty-five years it will be driven out, and proven to be a mistake, yet our people want it, they can only get it by a referendum in the various localities, and they vote upon it themselves, it is not our fault, they will finally see the error of their way and probably not continue it, shall they be deprived now of the opportunity of doing it because in our opinion or in the opinion of some of us, at least, it is unwise because it will build up political rings and cliques in the smaller municipalities, at least, which will be subversive of good government?

These are some of the questions which rise in my mind as to whether or not I want to vote for this proposition. I am delivering these questions early enough in the discussion so that I may gather from the discussion of the other delegates who speak on the subject information to satisfy my mind as to what I ought to do.

Mr. HULL (Cook). The committee is evidently ready to act on the question.

Mr. SUTHERLAND (Cook). I will not trespass more than a minute or two on your time. I simply want to call attention of the committee to a critical consideration of this proposal. It seems to me we have two alternatives, as guardians of the future welfare of the State of Illinois and of its citizens and taxpayers.

First either put in the Constitution, a prohibition which does not exist now against the public ownership and operation of public utilities, or put in some limitation so that when, as now, efforts are made to own, acquire and operate these public utilities by the municipalities of the State it shall be done on a business basis, and not as it is done now at the expense of the taxpayer, under conditions which will make it possible for inefficient administration such as has been described by the delegate from Pulaski, to make one citizen pay for another citizen's ride, electric light or another citizen's fuel.

It seems to me we have these two alternatives. Now if we put into the Constitution an absolute prohibition against municipal ownership that has been practiced to a limited extent then we are defeating an existing condition or disturbing an existing condition in a great many cities of the State and we cannot say just what the conditions resulting will be. But, personally, I think I would take a chance and vote for that, had as I think that would be in policy, rather than see the present condition continue whereby a municipality can make a pretence of running these utilities on a business basis and actually run them at the expense of the taxpayers. It seems to me that this is a vital prohibition that belongs in the Constitution. I don't think we should say that the city should never have the right to run these utilities; it may be that conditions are going to be so discouraging to private capital that it will be impossible to get it to go into the utility business, yet the people must have street car service, electric lights and

water and other service of that kind. Now then let us not leave it as it is now so by simply creating a taxing body you could finance, after a fashion, a utility and as the distinguished delegate from Pulaski has pointed out hire more employees than are necessary for the sake of building up a political machine and pay those employees anything they demand because they are politically active, and on the other hand because it is bad policy politically to charge too high rates they are run at a deficit, knowing it can be charged off to the general fund of the taxpayers, who pay their bills not knowing why their taxes are increased. This puts financing of that sort squarely on its own feet and makes it self-sustaining. I think we should take the alternative of accepting something like that and be square with the people of the State of Illinois, and see if it can be done.

Mr. HAMILL (Cook). Is it your idea that these sections, if adopted, would do away with the possibility of creating a separate taxing body, that you speak of?

Mr. SUTHERLAND (Cook). No, I don't think they would do away with such a separate taxing body, that is the possibility of the creation of it, but I do think, Mr. Chairman, that they would do away with the demand for any such authority, and the creation of superimposed taxation in these days we have too many taxing bodies; that is not popular in itself. But if the demand comes for another reason then the other reason may sweep aside the economic reasons. Now, if they have in the Constitution a method whereby they can finance that sort of thing under proper restrictions such as do not exist when taxing bodies are created, they can avail themselves of it.

Mr. HAMILL (Cook). Do you think people who want to run public utilities at the expense of those who do not use them will be content with a scheme which requires the utilities to be self-sustaining by those who use them?

Mr. SUTHERLAND (Cook). I don't suppose there is any public official who would conscientiously admit or perhaps be conscious of the fact that he wanted to run a public utility at the expense of those who did not use it. I would not impugn that motive to any officer in the State of Illinois. I do think, once in the meshes of the system which permitted that sort of thing he would be prompted by political exigencies to do that very thing, if he were to have his political existence, and I think that a thing like this would be a stone wall at the back of a public official who wanted to do right, and it would be a piece of backbone for the public official who, wanting to do right, did not perhaps have as much stamina as could be desired. It seems to me it is an excellent limitation to put into the Constitution.

Mr. MILLER (Cook). Do I understand you to say, Mr. Sutherland, that you did not think any public official would advocate deliberately going into the public utility business with the, say, street car line, with the idea of making one man pay for another man's ride?

Mr. SUTHERLAND (Cook). I cannot conceive any man doing that conscientiously.

Mr. MILLER (Cook). Hasn't that been advocated in the city of Chicago down to the present time?

Mr. SUTHERLAND (Cook). I have heard it advocated that a tax system should be created for municipal ownership. So that the utilities should be financed. I have not heard the advocates of that plan admit that they were going to run the street cars out of the tax levy. I have not heard that they expected to do other than run them on a paying basis. I predict that under the circumstances in Chicago, or anywhere else, it would not be two years if it was that long before these utilities were actually being run at the expense of the taxpayer because of the inevitable political situation that would be created in spite of the best desires and determination, perhaps of the officials who were elected and who were trying to do otherwise. In other words an elected official to carry out his program has to be re-elected and re-elected and it comes to a place where he will sacrifice a great many things for that he conceives to be his program whatever it may be

for the welfare of the city. I think the effect is there, but I do not charge it to anybody's intent.

Mr. HULL (Cook). May I answer a question asked by Mr. Hamill whether this proposal would prevent the creation of another taxing district. You asked that question?

Mr. HAMILL (Cook). Yes.

Mr. HULL (Cook). This would apply just as much to other taxing districts as to the City of Chicago, the method for creating the other taxing districts would be the same.

Mr. HAMILL (Cook). No, it would not; the other districts are supposed to finance the acquisition of public utilities without the power here at all. They do it under the five per cent limitation, and that is the plan. None of the limitations contained in this article would apply.

Mr. HULL (Cook). You are right and wrong. I should say so far as the City of Chicago is concerned the financial resources which would be available by the creation of additional taxing districts would be very inadequate for any comprehensive system.

Mr. HAMILL (Cook). I don't know what the figures are. I know that is the plan. Would it be advisable to put in this article a provision that no municipal corporation shall have power to acquire public utilities except as by this section permitted?

Mr. SUTHERLAND (Cook). I think so.

Mr. HULL (Cook). I would be very glad to have that; that answers your own question, too.

Mr. HAMILL (Cook). I have not thought enough about it but it seems desirable to have such a provision here.

Mr. MILLER (Cook). If there were created a new taxing district and the legislature should authorize or make the assessed value the full value then there would be a bonding power under the direction of a district covering Chicago and some of the suburban towns of at least \$175,000,000.00; I mean under the five per cent limitation; isn't that correct?

Mr. HULL (Cook). I don't know how far the figures would carry you, I have a few figures which may be pertinent to the situation. In a recent decision of the Utilities Commission the Street Railways of Chicago I believe were valued at one hundred and sixty million; the Elevated were valued at seventy millions, and the Traction Ordinance which was submitted a couple of years ago to the voters of Chicago the estimated cost of a comprehensive system was put at about four hundred and fifty million, or rather at about four hundred million; a little less than four hundred million.

Mr. MILLER (Cook). But the public utilities estimate on the surface lines is about one hundred and sixty million?

Mr. HULL (Cook). I believe that is about right.

Mr. MILLER (Cook). I just want to say a few words on this matter. The matter was presented to our committee on Chicago and Cook County last spring. I have had many misgivings about it because I have been so well convinced that the city could not very well operate a public utility where so great a portion of the expense is labor, as it is in the operation of a street railroad system.

The situation, however, in Chicago as I get it is this, contrary to the understanding of Mr. Sutherland, I have seen advocated in the newspapers in Chicago by a present assistant corporation counsel, the acquiring and operation of a street railroad system by the city with the purpose and intent of charging only a five cent fare no matter what the cost of operation would be and paying that necessary balance by general taxation, and the reason assigned has been that the city by public tax helped to pay for the boulevards on which people rode in automobiles, and therefore there was no reason why the public should not pay by general taxation for the operation of the street car system. Now the agitation there is for the creation of another taxing district known as a traction district to be imposed on the same territory as the City of Chicago and suburban territory. If the last should happen then under our present Constitution with the five per cent deficit and an increase by the legislature of the assessed value to the full

valuation, if necessary, the traction district could issue bonds to the extent of one hundred million dollars upon the property in Chicago alone, and the property in the balance of the district would authorize an issuance of probably an additional twenty million or thirty million, that such a traction district might issue without any change in the present Constitution, and on the assumption that this Constitution is never adopted at all there would be in the neighborhood of two hundred million dollars which would be sufficient to acquire all of the surface lines and probably sufficient to acquire all of the surface lines and elevated railways, if condemnation were resorted to and the valuation of the property was submitted to the taxpayers and street car fare payers of the City of Chicago. That is the scheme.

Now the question is, what are we to do about it? Of course this particular proposal by Mr. Hull does not in any way pretend or assume to shut off that particular line which I have outlined. It could not do so unless there were an additional provision here, that no public municipal corporation of any kind should go into the public utility business either by the issuance of bonds up to the present bonding limit or beyond except through this method. I don't exactly see how that could be done, and how that could be put in, possibly it could.

Now the situation as I look on it is this, the Constitution at the present time, as we have it, if the present Constitution remains, or the Constitution remains without any such provision as this in it, will permit the carrying out of the plans that I have outlined if those who favor that plan control the legislature and government.

Now the question is, as I see it, shouldn't some plan be put in the Constitution whereby a municipality may do just the same thing that they may do now, but in a way which has some safeguards thrown about it? If we have that in the Constitution then the adoption of the Constitution may be advocated on the ground that this is a measurably safe and sane way of getting into the public utility business by a municipal corporation, whereas any other system would be unsafe and unsound. In other words I cannot see how this is going to open up any door to public ownership that is not already wide open, and if this should go into the Constitution it seems to me that we might very safely place some limit upon the corporation in the creation of new taxing districts superimposed upon those already existing, and place some additional restrictions in that are not there now. It is true that in the Chicago and Cook County article which has been drafted and reported, there is a restriction placed upon the creation of new taxing districts to be superimposed upon those already existing. There are new restrictions which do not now exist, and it seems to me after having thought over the matter a good deal that in spite of my hesitation originally to go into this plan the better plan after all would be to go through with a proposition of this kind which is the safest and sanest plan of municipal ownership that I have seen, and at the same time put in some restriction on creation of new superimposed taxing bodies. For these reasons I am inclined to support this proposition.

Mr. QUINN (Peoria). I have no well defined ideas on this proposition of municipal ownership; I agree quite strongly with Mr. Hull that there should be some allowance for municipal corporations to go into the public utility operation.

I want to vote intelligently on the proposition and in order to do so he will have to answer a question or two for me. I would like to ask the gentleman why in the proposed amendment he includes these "other municipalities" in connection with cities? You say, in every place where you confer the right, it is conferred on any city or other municipality, municipal corporations—

Mr. HULL (Cook). It may mean something like the Sanitary District which is a municipal corporation, and I think counties are sometimes called municipal corporations, but I doubt if they are properly so described.

Mr. QUINN (Peoria). My thought was this: the Act of 1903 clothed cities with the right to operate street cars within the city. The Dunne Act of 1913 goes still further; it allows cities, villages and incorporated towns

to work in, transportation—you have used the same term—communication, light, heat, power and water, and other public utility enterprises; the other enterprises referred to in the Act of 1917 are of transportation, of oil and gas, and the storage and warehousing of property and in the business of conducting wharves. Now the thought has struck me that in order to build a street car line to supply the citizens of that big metropolitan district that we will call Chicago, and Cook County, or if they want to furnish electric service or gas service, telephone or telegraph service or communications within that district, and it is to be municipally operated, the County of Cook and the outlying districts around the City of Chicago are vitally interested in the proposition. I want to know if this is broad enough to allow the city to do all of the things, and function in the county outside of the city limits?

Mr. HULL (Cook). Mr. Chairman, I would say the question of the authority to do these various things must be determined by the act of the legislature. This is not conferring power to do those things—

Mr. QUINN (Peoria). I understand that.

Mr. HULL (Cook). This is not increasing the power in respect to where the municipal corporation functions, it is only a provision which gives the power to finance.

Mr. QUINN (Peoria). Very well then, the legislature might provide in addition to the right being conferred on the City of Chicago it could be conferred on the County of Cook?

Mr. HULL (Cook). There is no reason why it could not.

Mr. QUINN (Peoria). If it is conferred on the County of Cook to go into the transportation business, you assess all of the property in the County of Cook—all of the real estate—fifteen per cent for going into this business.

Mr. HULL (Cook). You do not assess them for fifteen per cent.

Mr. QUINN (Peoria). I know, you bond them.

Mr. HULL (Cook). You have the right to issue bonds to the extent of fifteen per cent of the value of the property.

Mr. QUINN (Peoria). Now then assume under the present Act, in the City of Chicago—I was trying to follow your figures on taxable property up there—as was said the other day, there is real estate of the value of two billion three hundred and nineteen million dollars, which may be taxed for these purposes, and the bonded indebtedness or debt creating power of the City of Chicago, for that purpose would be three hundred and forty-seven million dollars. The City of Chicago can issue bonds in addition to its present five per cent of three hundred and forty-seven million dollars to go into all of these businesses, and if the legislature later on broadens the power of this provision—and it would be within the contemplation at least of those who got the power—Cook County could add its value to that, and fifteen million more in debt creating power would follow by reason of the value of the real estate in Cook County outside of the city limits. If the power is conferred on other taxing bodies, and if you contemplate you open the door here so that other taxing bodies may be designated, and if Cook County is designated, or a county is designated, you have the possibility of raising three hundred and sixty odd million dollars in Cook County for this purpose.

Now the thought struck me that if we were going into municipal ownership in this proposition, I think it is conceded the only city contemplating it is Chicago, the words “other corporations” should be stricken from this Act so as not to open the door and let the sanitary district, or the park board—if it is designated as a municipal corporation, or some future legislature should designate it that way—or county come in for the purpose of making these enormous taxes. I say the city tax on the value of the property of the city, and when I say “tax” I mean the ultimate tax which the people must pay—the city has the power of going in debt three hundred and forty-seven million dollars on the value of the property in the city, and if you give the county the power to go into the electric light business, the

county can go into debt three hundred and sixty-two million dollars, or for any purpose; the sanitary district for supplying the electricity, may do it, and it is possible that the debt creating power of these little municipalities up there may reach a billion dollars or more in the development of these properties that are not solely and wholly necessary to the city of Chicago, but that do affect the people outside, and in which the people outside of the city are interested.

I don't like to see it so broad. If the present municipality known as the city of Chicago could go in debt for these purposes three hundred and fifty million, and possibly some subsequent legislature would broaden the power and confer these rights on other municipalities, say the county of Cook, the county of Cook could then go into debt three hundred and sixty-two million dollars for another purpose, and this enterprise, and this municipal corporation known as the sanitary district with a taxing power of possibly fifty or seventy-five millions of dollars would issue bonds for electric lighting purposes or something of that kind upon the value of the property in its territory, and add that to the enormous taxing power of these other two municipal corporations.

I would much prefer if the words "other municipal corporations" were not in the act, because I think it opens the door to subsequent legislation and subsequent legislators to make it possible for all of these municipalities to get into the business and add the weight of their tax to the burdens already placed on the city of Chicago. When the measure goes to the city of Chicago the citizens of Chicago will assume the limit of taxing powers or credit power will be in the neighborhood of three hundred and fifty million dollars, and they might be in favor of that proposition, but if they knew that next year or in a few years from now the county could go into debt three hundred and sixty-two million dollars or the sanitary district the same amount, it is possible that they might not like the act.

Mr. HULL (Cook). As a practical question do you think there is any possibility of such a situation arising?

Mr. QUINN (Peoria). As a practical solution of Chicago's difficulties there never can be any solution of its transportation problems, lighting problems, communication system and interurban system, unless the rights of the outlying cities are protected.

Mr. HULL (Cook). Let me call your attention to the consideration that would weigh in my mind against the hypothetical case you have stated. If the city of Chicago went into the public utility business, whatever power is given to the sanitary district or the county of Cook by act of the legislature to do something of the same kind, they would still be inside of the referendum vote; and the voters voting on any such proposition in the sanitary district or the county of Cook would be ninety-five per cent of the same voters who had voted on the proposition with reference to the city of Chicago. It is inconceivable to my mind that substantially the same body of voters with just a little difference should do that. Those living outside of the area would vote on this two or three times, so in a practical way I see nothing in your apprehension.

Mr. QUINN (Peoria). I am sure if this were to be submitted to the voters of Peoria, with the statement this proposition affects only Chicago. I might vote for it, and I think the citizens of Peoria would not hesitate to vote for the proposition, if they would not have any burden to bear, but it is not limited to the people who pay it or pay the taxes, but it is thrown open to a vote largely by those who do not pay taxes.

Mr. HULL (Cook). Notwithstanding your way of putting it I have no such fears; I have seen the submission of bond issues for the purpose of increasing the number of police stations, and increasing the payment of the police defeated time after time by the vote of those who are not taxpayers. I think on the whole that the exercise of the right to vote on questions of that kind has been quite intelligently exercised. There has been many many times when increases have been obtained, and at the same time they have wiped out a half dozen other propositions submitted at the same

time. Some have been beaten and some approved, and it has been rather surprising at times to see the results in some of these referendum votes.

Mr. KERRICK (McLean). You provide here that this may be applicable to such income producing properties as it is by law authorized to own or operate. Do you mean such cities as are now authorized to own and operate or which may be authorized to own and operate?

Mr. HULL (Cook). The Constitution would at any time speak in the present tense. I take it it would depend on what the law was at the particular time.

Mr. KERRICK (McLean). I had in mind there that that would include other public utilities, or would include other industries for operation as public utilities, which are not, so-called. Now we had last fall a proposition which was voted down, which not only included heat, light and water and so forth but everything that is now by statute considered a public utility, and it went further and included mines, railroads and an indefinite description of almost anything that might be designated a public utility. How did Chicago vote on that?

Mr. HULL (Cook). I have no recollection.

Mr. KERRICK (McLean). My recollection is that there was about 67,000 majority in favor of those propositions. The State at large gave a majority, but the down State vote reduced the Chicago majority by something like 40,000; but Chicago voted overwhelmingly for a proposition very much wider than this. Now, can you tell me what is the bonded indebtedness, for instance, of the street car lines in Chicago?

Mr. HULL (Cook). I do not think I could give you the specific figures.

Mr. KERRICK (McLean). Have you any information as to who are the owners, either outright, or holding those bonds as collateral?

Mr. HULL (Cook). I am not advised as to any of the particulars of the ownership of any of those utilities. We know that the Insull interests are supposed to have an interest in some of them, but I do not know how they are held.

Mr. KERRICK (McLean). They are embarrassed, are they not, those traction lines in Chicago, with debt?

Mr. HULL (Cook). I only know what the newspaper reports say. You probably know that as well as I do.

Mr. KERRICK (McLean). They want to sell, if they can get their price, do they not?

Mr. HULL (Cook). I do not know whether they do or not. I have not conferred with any of the interested members of those utilities, and I do not know, and I do not care.

Mr. KERRICK (McLean). Bankers holding their paper, either as owners or as collateral, to secure debts, are anxious to have those bonds taken up, are they not?

Mr. HULL (Cook). I know nothing about the banking situation with reference to those utilities and their collateral.

Mr. KERRICK (McLean). Some banks are very heavily loaded with them, are they not?

Mr. HULL (Cook). I do not know.

Mr. KERRICK (McLean). And this would apply, of course, broad as it is, to every municipality in this State—take Bloomington, for instance—by a vote.

Mr. HULL (Cook). Yes, and it properly ought to apply to every city, in my judgment.

Mr. KERRICK (McLean). The city of Bloomington voted by a majority in favor of the proposition submitted last fall. It would bankrupt Bloomington twice over. Bloomington has recently had an election forced upon it by the Lakes to the Gulf Waterway Commission, in consequence of a complaint made by one taxpayer about its sewage being offensive to him and people down a stream that some of it goes to, whereby we are put under the obligation of raising \$800,000; and strange to say—in that case the vote was exactly a tie, officially, and there will have to be another election.

Chicago, however, is exempted under the act that makes us subject to that provision—and its sanitary district. Now, I am simply asking for information. We have got to vote on this some time. If it comes to us, it will bankrupt Bloomington; but I think it will probably carry as a proposition submitted to the people if it is limited to the taxpayers; as a similar proposition, but a much wider proposition, including all of the railroads of the State, has carried in Chicago by, I think, some 67,000 majority.

Mr. HULL (Cook). I want to say one word in answer to the argument of Senator Kerrick—

Mr. KERRICK (McLean). I do not call it an argument. I am simply seeking information.

Mr. HULL (Cook). I will call it an argument, because it is the argument of innuendo. He has suggested that the traction interests of Chicago, or the banks of Chicago, want to get out from under. I do not know whether they do or not, and I do not care. I have not touched the traction interests. I have not a dollar's worth of stock in any of them. The question with me is not a question of what they want or do not want. It is a question of what is the proper way of meeting the political and economic issue before the people of this State, and of our city; and I think we have got to meet it on the square, and not by any subterfuge. There is a demand for it everywhere. Maybe that demand is an unfair demand. Maybe it is a demand that has been created by political speeches of demagogues and so forth. I do not know. But I say we have got to meet that issue, that transportation issue, and one aspect of it is the public utility ownership aspect of it.

In other words, another one is the question of the power to regulate rates and service. Another aspect of it is the aspect of local regulation by cities themselves. It is going to be in politics, and you cannot keep it out. As one of the alternatives which should be presented to the voters of this State to pass upon, there ought to be this alternative of municipal ownership and operation. If you are going to have municipal ownership and operation under any form, whether under the form suggested by Mr. Miller, of creating additional taxing districts, or any other form, it ought to be done under some safeguards that have some possibility of checking municipal extravagance in the operation of such properties. That is the only reason this is presented here, and I resent the argument by innuendo.

Mr. KERRICK (McLean). I resent the gentleman's charge that it is an argument by innuendo, or that it is subterfuge. I have not intimated anything at all that would justify any such remarks. I am taking Chicago as typical, perhaps, of the average municipality in the State of Illinois, and I am seeking information which the gentleman seems to have a very insufficient supply of. I will have to talk to somebody else. I want to know what we are getting into before I vote. It is a new thing to me. I knew nothing of this proposition until the last half hour. The same is true of many other here. I have the right to ask the questions I did ask, and I have the right to say what I did without being charged with innuendo or subterfuge.

Mr. HULL (Cook). I do not want to be in unpleasant relations with anybody. I simply want to clear myself of being understood to be representing anybody or anything but the public interest. That is all I have ever represented all my life. And I want to say also, of course this is a large question, and I can well understand the hesitation of the members of this Convention upon passing upon it right now.

I presented this proposition last week in order that it might be printed, and in order that the members of the Convention might have time to consider it before it came up on the floor. I had assumed that inasmuch as it had been printed, some of the members here had had time to give it consideration. I have wrestled with it many hours, both in the committee and by myself, and I have come to my conclusions reluctantly, but none the less firmly, that it is a wise proposal for this Convention to adopt. I do not want any man here to feel that he is precipitate in his conclusion,

and if it will tend in any way to a wise conclusion of this committee on this subject, I would suggest that we now rise and report progress, and take it up again in the morning, so that we may have a chance to talk it over among ourselves tonight and get all the argument that we can out of our systems.

Mr. LINDLY (Bond). Make the motion.

Mr. HULL (Cook). I will make that motion, then, that the committee do now rise and report progress.

Mr. DEYOUNG (Cook). It is early yet, too early to suspend now.

Mr. HULL (Cook). Then I will withdraw that motion.

Mr. DEYOUNG (Cook). Anybody who has observed the career of Delegate Hull knows that he has always discharged his duties with infinite credit, and with slight regard to personal consequences. Anybody who even intimates that he has a private interest to serve is wholly unacquainted with the man and his record in public office.

Now, I have approached this question with some difficulty. I do not know that I understand it now. But I believe that the purpose of Delegate Hull is to place certain safeguards with reference to public ownership and operation of these utilities. First of all, am I not correct, Senator, that you seek to make these utilities self-supporting?

Mr. HULL (Cook). That is correct, sir. Under municipal ownership and operation I seek to make them self-supporting.

Mr. DEYOUNG (Cook). You seek to make it so that if any municipality seeks to embark upon public ownership or operation of these utilities, they must be self-sustaining, and you will put it into the hands of the taxpayer to compel that very thing.

Mr. HULL (Cook). That is correct, sir.

Mr. DEYOUNG (Cook). You are unwilling to permit a utility, often brought to that point by the clamor of the demagogue to compel others, if you will, who do not avail themselves of this service, to support any deficit by taxation? You seek to prevent that?

Mr. HULL (Cook). I do.

Mr. DEYOUNG (Cook). I do not know whether this is stated as succinctly or as clearly or as definitely as it can be, but if these are the purposes of this proposed amendment, if these are the things which it seeks to accomplish, it seems to me to be clearly a salutary proposal, and one that, in the present state of the public mind, where the demagogue has all too much sway, whose voice has latterly at least been heard in too many places in this State, especially in the large centers of population—it seems to me to be right in principle, and something in the direction of which we ought to tend.

Mr. MILLER (Cook). I think this perhaps ought to be studied. The question has been raised as to the attitude of public utilities themselves towards public ownership. Assuming that the inquiry was made purely for the purpose of securing information, I want to say that while I cannot speak for any of them, and am not in the confidence of any of them, or the management of any of them, my belief is, from what information I have gotten, that there is a considerable sentiment among the owners of public utilities in Chicago—it is not unanimous, and I cannot say it is a majority—but there is a considerable sentiment in favor of an absolutely wide open door to public ownership. Of course, from my standpoint these public utility owners who favor this absolutely wide open door, with unrestricted power to the voters to go into the public utility business, and to issue bonds ad libitum for that purpose—I can see only one purpose that they have in mind, and that is not a public purpose, but their own purpose. But so far as I am concerned, I am not in favor of throwing open the door to unrestricted public ownership and operation. So far as I am concerned, I do not believe in it at all from the public standpoint, and I want to restrict it as much as I can.

Now, this proposal, it seems to me, as I think I said before, is the safest and sanest provision along that line that I have known or heard of, and it is for that reason that I am inclined to favor this, and I think that this

thing must be said, that in the City of Chicago there is a rather widespread sentiment in favor of giving the city the power to go into municipal ownership and operation of certain public utilities, particularly the street car lines. How that sentiment is created is beside the question. It may have been created by demagogic newspapers, or demagogic statesmen, so-called, who are seeking, not the good of the country or the good of the city, but their own good. But however it was created, it is there, and it has got to be reckoned with in the formation of this Constitution. It seems to me that perhaps the best thing we can do is to reckon with it and restrict it as much as we reasonably can.

Mr. WALL (Pulaski). Mr. Miller, do not the owners of street car lines in Chicago share in and encourage this sentiment for municipal ownership?

Mr. MILLER (Cook). I am not in their confidence. I do not know. My impression is that some of them do and some of them do not. That is my best judgment, and that is all I can say.

Mr. WALL (Pulaski). Is it not your opinion that under the present condition of unrest, occasioned largely by the raise in the rates of the Public Utilities Commission, as soon as the new Constitution would take effect, with this amendment in it, nearly all of the municipalities in the State would through their people start out a referendum to buy one or more of the public utilities?

Mr. MILLER (Cook). My notion would be that under the provisions contained in this proposal here introduced by delegate Hull, probably there would be very few, if any, municipalities that would vote in favor of it. For instance, as far as that portion of public utility owners with whom I have had some conversation is concerned, which prompts me to say I think some of them favor municipal ownership of public utilities, especially street car lines, they favor, as I get it, the formation of this traction district so that they can go into the purchase of public utilities without any restriction whatsoever as to who pays for the operation. That is the kind they want.

Mr. WALL (Pulaski). Your information and mine with reference to down State utility ownership by private parties is vastly different. I will say to you frankly, my information is from some private owners of down State public utilities that if they can take advantage of the feeling of unrest that has been manifested and put into operation, at the last election, the primary and otherwise—they can sell out at a large profit to these various municipalities, if they are constitutionally given the power to buy.

Mr. MILLER (Cook). Well, they constitutionally have the power now. That is the point.

Mr. WALL (Pulaski). Yes, as to some, and only within the limits of the city.

Mr. MILLER (Cook). They constitutionally have the power. They can create new taxing districts in every locality of the State.

Mr. WALL (Pulaski). Yes, but they cannot tax fifteen per cent.

Mr. MILLER (Cook). No, but they can tax enough to buy the utilities, which is sufficient.

Mr. WALL (Pulaski). Not by any means, and there is where we differ. Many of the down State localities—and it is probably true of Chicago, I guess—are already in debt to the constitutional limit.

Mr. MILLER (Cook). I have just stated that by creating a new traction district in Chicago, the bonded debt under the present Constitution may reach almost \$200,000,000, and they do not need any of this for the purpose. They do not need this at all. But I assume there are other localities in the State, many of them, where by the creation of a new taxing district, with a five per cent bonding limit, and an act by the legislature making the assessed valuation the full valuation, they can get enough money to buy in the public utilities, especially the street car companies, and especially if they have a right to try the valuation before a jury of those people who pay the taxes and pay the street car fares. Now, that is the present situation. I do not know anything about the sentiment down State among the traction owners, and I know very little about it in Chicago. I am guessing

largely. I have simply talked with some of those who are interested in traction lines.

Mr. REVELL (Cook). Let me ask a question to clear up in my own mind the order that this proposition would take in the protection it promises to the taxpayers. We will assume that we endorse this proposition, and that the people of Chicago, let us say, decide to take over the traction companies, the gas company, the Commonwealth Edison Company, and one or two other companies—which would aggregate a sum necessary of \$200,000,000

Mr. MILLER (Cook). More.

Mr. REVELL (Cook). It would come to more, would it not?

Mr. MILLER (Cook). Yes, sir.

Mr. REVELL (Cook). Would the protection extended to the taxpayers of Chicago or the State, promised by this proposition, come before this was done or after this was done? In other words, after the people were committed to this, the bonds sold, and the money spent to a very large extent? Or would we be in a position to protect ourselves before the act? In other words, if we go into it, must we not experiment for a time, and may it not be the fact that the people would find themselves confronted with two hundred or more millions of bonds, and at that time find obstacles, which would assure them that this plan could never be successful? I am speaking now as to the order of protection under the proposition as submitted.

Mr. MILLER (Cook). Answering that as best I can, I take it that these bonds, if issued, must be issued under this plan. The only loophole I can see in this plan is this, that wages might be put up so high that rates could not be raised to a point which would yield enough to run the utility. When I say that, I mean that the utility might be run in some way so uneconomically—

Mr. REVELL (Cook). Right there, then: In other words, we shall find out after operating the proposition, if we find out that way, that the expense of the municipality conducting these utilities shall be far greater than under private ownership. In the meantime, there is nothing in this bill to protect us; the bonds shall have been delivered over, and perhaps sold, and those in charge of the municipality would be persuaded to make all of the expenditures necessary.

Mr. MILLER (Cook). Of course, we cannot have the experience until we have had it. That is true. But the point I am trying to make is that the power exists now to go into this public utility ownership without any change in the Constitution.

Mr. REVELL (Cook). You cannot issue 15 per cent of bonds.

Mr. MILLER (Cook). No, but you can in the manner I have indicated issue enough to take over all of the street car lines, and probably all of the elevated lines in Chicago; and the point I am trying to make is that if we put this through, that is a limitation on the way it may be done, it does not make the situation worse, but makes it better; and I at the same time, if I had my way, would restrict the power of the legislature to create new taxing bodies overlapping on the present taxing bodies, so as to get around this provision. In other words, I regard this as a restriction, if it is coupled with it, rather than throwing the door open.

Mr. REVELL (Cook). But there is the open door, so far as I can see, absolutely, to go into municipal ownership.

Mr. HULL (Cook). I want to repeat in a little different form what has been said before, for the benefit of the gentleman who has just been asking these questions. Supposing the city goes into the public utility business, and supposing the business has a large number of employees. Supposing that large number of employees is organized, and is very active in promoting its own welfare and insisting on higher wages, and does push its wage scale up pretty well. Your city administration is then faced with the prospect of a deficit, and meeting that prospect, it knows that behind it is the taxpayer, as a court of general jurisdiction, asking to have an increase in the service to meet the increase in rates from six to seven or eight cents. What is your administration going to do? If the man involved is a poli-

tician with any sense at all, he sees on the horizon, as every politician who is in practical politics does see, his enemy, waiting for him with a club. He sees his enemy there saying to the public, "Mr. So and So has raised your fare, you millions of people in this city, from six to seven cents. He has taken the money out of your pockets." And the man in question, the Mayor or the head of the city administration, says "I am not going to take that chance. You boys who are drawing the pay have got to be satisfied with the pay that you have got. We are not going to take that chance and be out. There is a bigger public that is going to have something more to say about it than you men, who are working in this service." That is the political check; there is a political problem presented to the administration that is conducting the operation of a municipal plant, to keep the plant in fairly efficient operation, and keep the costs down. If he does not, the fellow who is against him will have a mighty good argument to put him out.

Mr. REVELL (Cook). Of course, I cannot see the possibilities and the ultimate result that Senator Hull sees in the wisdom of the average political control in the City of Chicago. I am against municipal ownership in the City of Chicago, and probably that is the reason that I am asking these questions, as against the proposition that Senator Hull has presented here. I see no reason why those of use who are against municipal ownership in the City of Chicago to any greater extent than we now have, should take the position that we want to open the door and prepare the way for this gigantic experiment. Because, in my humble estimation, it is nothing more than a gigantic experiment in which the taxpayers of the City of Chicago shall come ultimately to ignominious failure. There has been no era in the history of the City of Chicago that I can recall, wherein, among those in charge of the administration of affairs, there was any individual or any group to whom you would trust any such business arrangement of this kind. So why assume that in the future, because there is a demand for municipal ownership, there is going to be some one there, or there is going to be some group there who will so handle these gigantic interests that the taxpayers will not ultimately suffer? And why should we, as makers of the Constitution, say that because they will ultimately suffer, they get what they deserved? That will not do.

There is nothing whatever to promise success in municipal ownership of public utilities in the City of Chicago. On the other hand, every student of the subject, aside from those who are absolutely in favor of municipal ownership everywhere, and have seen some successes in some places—any student, it seems to me, among the people who have had any experience in business, will foresee utter failure, as stated before.

On the political side, my prediction is that it will be something terrible. The public utilities of the City of Chicago today employ somewhere between 80,000 and 120,000 employees. Now, just stop a moment and think of that as a political machine, not only for the City of Chicago but for the State of Illinois. It would be the balance of power that would prevail in politics throughout the State. No matter what might be done in some of the smaller municipalities down throughout the State, where they pay closer attention to public affairs than we do, where in many instances they meet in the parlor of some officer's home to seriously consider the welfare of that community, that would be the balance of power. I feel that I know and have a fair idea of the problems and the obstacles that we will have to overcome to make municipal ownership a success in Chicago. You might term this a reflection, if you wish, upon the type of officials which we possibly succeed in giving to the taxpayers of the city. Why, we do not have to go any farther back than the last election.

I will bring to you here at the next session of this convention a printed circular issued by one of the political parties, in which it distinctly states that, "if you vote for three certain men for public office in Cook County and the State of Illinois, you will be positively sure of five cent fares in the City of Chicago." Not that it would lead toward five cent fares, but that there would be five cent fares. That is one of the promises, one of the sort of promises which are made to lead the voters who do not look at funda-

mental matters, to go the way of the man who promises to do the greatest number of things for the average voter. Now, I do not know but what, if some fair man had been running for any given office in Cook County on that date, and had gotten out a similar circular calling attention to these five cent men, and saying that they were robber barons, and if the people would vote for him he would be in favor of a three cent fare and would see that it was put through, it would have been just as effective. In other words, it does not make any difference what you promise. The point is to get the vote, and then offer some resolution in some body at a future time along the line of what you promised, which is voted down because it is absolutely unworkable; and then turn to your constituents after the failure has occurred, and you have not been able to do it, and say, "Well, you see, I offered that resolution; I tried to get them to go along with me, and they would not do it. I did all I could. And meantime you are in office. You are elected under the promise you have made. You may have an entirely different situation down State. I am not going to say anything about that. But with the 80,000 to 120,000 municipal employees, aside from the employees already in the city control in the City of Chicago, I think you would be letting yourselves in for some thing, gentlemen, that you cannot foresee the consequences of at the present moment. I do not believe we should present this open door, if there are enough men in this room who think this would be a failure in a great city like Chicago, notwithstanding there appears to be a call from some that they be allowed to have municipal ownership. If you think they should have municipal ownership, and if you think they can make a go of it, and make it a success in the interest of the people, there is not any doubt about what your action should be, or what mine should be if I thought that way. But I do not. I am as firm as a rock upon the proposition that it would be a failure in Chicago, and it would be a costly experiment to the people of that city, and the people of the State of Illinois; and I am therefore against it.

Mr. COOLLEY (Vermilion). I presume there is not a man in this room who has opposed public ownership more conscientiously than I have. But Senator Hull almost persuades me. It seems to me that here may be a solution of this question. If indeed public ownership is coming, and the taxpayer is to pay the freight, here seems to be a proposition with great possibilities. It is an old story, and we all know what it means politically, but this great number of men who operate the public utilities is far inferior to the number of people who will be accommodated by these utilities. If the rate must rise as the demand increases, public influence will be brought to bear in a way that will be felt.

I believe that this would improve efficiency, and solve what has threatened to be the greatest menace that the taxpayers of this State were ever confronted with. I personally shall be pleased to hear more about it. I want the fullest discussion here. Put the thing on its merits.

Mr. HULL (Cook). I was going to raise a question as to whether it was the desire of the membership of this committee to consider the thing further, or vote on it now? A suggestion came from the gentleman from McLean that it was new to him, that he had not known anything about it until 25 minutes ago. At that time I said I was of a mind to suggest that we rise and report progress, and consider the thing further. As far as I am concerned, I want everybody to have all the time necessary for a fair consideration of the proposition. But that must not be prolonged indefinitely, otherwise we will keep this convention in session until next June. If we are ready for the question, let us vote on it right now, if there is a reasonable desire on the part of a majority of the members of this committee to go to bat on the matter right now.

Mr. CRUDEN (Cook). I would like to ask if Mr. Revell thinks that the defeat of this proposition by the convention would prevent municipal ownership in our city or State?

Mr. REVELL (Cook). No, I do not.

Mr. CRUDEN (Cook). I am of the opinion that Mr. Revell has here just what he wants, but the proper salesman has not approached him. I am

not a good salesman, but I think this is just what he wants. I think I know his sentiments. I am not for municipal ownership either, but I really think this is the solution of the problem.

Mr. HULL (Cook). I am going to make a motion, but first, there has been a matter called to my attention which some of you may have noticed in the newspapers, namely, that within the last few days there was submitted to the voters of the city of Toledo two questions on the subject of public ownership and operation of utilities. One was a municipal ownership proposition pure and simple, and the other was an alternative plan, of operation at cost under a scheme of trustees. I believe in that particular case the trustees were to be appointed entirely by the city, and the traction company had no voice or interest, as they had in the proposal submitted to the voters of the City of Chicago two years ago. You may be interested in knowing that the municipal ownership plan was defeated, and the scheme for service at cost was approved by the popular vote.

Now, Mr. Chairman, unless there is further discussion, I move that we adopt section 9 as a part of the Constitution.

Mr. SUTHERLAND (Cook). In order to test the sentiment of the committee as to the desirability of further discussion—for I think after our strenuous day we are too tired to proceed immediately anyway—I now move that the committee rise and report progress, and ask leave to sit again.

CHAIRMAN WHITMAN. There is a motion before the house.

Mr. SUTHERLAND (Cook). My motion takes precedence. I offer it, not to block the other motion, but simply to show that the committee is not ready to cease discussion, and if it is desirable, as many think it is, to continue it another session, we may carry this motion and discuss it further later on. This is a vitally important matter. Hasty judgment should not be taken on it, unless every one is right and clear in his own mind as to how he wants to vote.

CHAIRMAN WHITMAN. The motion is in order.

(The motion was carried, and President Woodward assumed the chair.)

Mr. WHITMAN (Boone). Mr. President, the Committee of the Whole having under consideration the report of the revenue committee, begs leave to report progress, and asks leave to sit again.

(The report of the committee was adopted.)

Mr. GREEN (Champaign). I move that the convention now recess until eight o'clock this evening.

Mr. HAMILL (Cook). I move as a substitute that the convention do now adjourn until nine o'clock tomorrow morning.

(The substitute was adopted, and at 5:45 P. M. the convention stood adjourned until 9 o'clock A. M., Wednesday, November 17, 1920.)

WEDNESDAY, NOVEMBER 17, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Monday, November 15th, was placed on the desk of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of November 15, 1920, will stand approved.

Reports of standing committees. Motions and resolutions. Unfinished business. General orders of the day. The Convention will now resolve itself into the Committee of the Whole for the purpose of further considering the report of the Committee on Revenue, Taxation and Finance. The chair designates Delegate Whitman to act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole, with Chairman Whitman presiding.)

CHAIRMAN WHITMAN. The committee will please come to order, and we will resume the consideration of section 9 of the report of the Committee on Revenue.

Mr. MACK (Hancock). Mr. Chairman, since we took the time until this morning for the purpose of considering this matter, some questions have occurred to me. I had begun to ask those questions of Senator Hull and was stopped before I got through, and that being the case, I want to take just a moment of this committee for the purpose of asking those questions now, if the senator is willing.

CHAIRMAN WHITMAN. Mr. Hull?

Mr. HULL (Cook). I will answer them if I can.

Mr. MACK (Hancock). The question that I am troubled with in this matter, Senator, is just this: I want to know under paragraph 11, if you will turn to that, if it is not true that there are two characters of bonds issued under that section? You speak of certain bonds and certain other bonds. Now, will you describe to me and to this committee the nature of the two character of bonds there indicated?

Mr. HULL (Cook). The section contemplated the possibility that a city might have a certain borrowing power without having resort to the borrowing power given by this proposal. That is, it might have a borrowing power within the debt limitation of section 8. It might not have exhausted its borrowing power under section 8, and if it had borrowing power under section 8 it might have resort to that borrowing power for part of its financial necessities in the financing of any such income producing public utility, and it might also have resort to the borrowing power authorized by this section 9. In case any municipality was in that situation where it was financing any such utility partly under the borrowing power of section 8 and partly under the borrowing power of this section, the proposal contemplates that the enterprise shall be subject to the limitations of this particular proposal, both as to the money which is borrowed under its general borrowing power, and the money which is borrowed under this particular authorization.

In other words, it, so far as the money is concerned which it borrows under section 8, must have the money ready to pay back, the principal and interest, just as though it borrowed it under section 9. If the enterprise is

begun with any money at all borrowed under section 9, the enterprise is subject to the limitations of section 9.

Now, I will call your attention to another phase which contemplates the same situation, down at the bottom of page 2, there is the parenthetical phrase, lines 20, 21 and 22. "Irrespective of the subsequent amortization of debt evidenced by any bonds, or other securities, whatsoever, issued for the financing of such utilities."

Suppose a municipality borrowed money under section 8, which has no such provisions as are contained in this proposal, and borrowed money also under these provisions, and then proceeded to pay off the money borrowed under these provisions, part of the money used for the financing of the utility, this proposal contemplates that irrespective of the amortization of that portion of the debt, the utility must conform to the provisions of this proposal. That is, the municipality having borrowed money at all under this proposal, even though that money has been paid off before the money borrowed under section 8 becomes due, must conform to the safeguards of this proposal, the guarantees of this proposal. It must set aside the money for the payment of the interest and principal at the periods fixed in this proposal, and if it does not, a taxpayer can come into a court of general jurisdiction and compel the raising of the service rate to such a figure as is contemplated will enable the municipality to finance the enterprise without resort to the general corporate fund.

I don't know whether I have answered your question or not.

Mr. MACK (Hancock). Yes. Now, Senator, am I right that to obtain the funds to purchase a public utility, that bonds may be issued within the limit of 15 per cent?

Mr. HULL (Cook). Yes, sir.

Mr. MACK (Hancock). That 15 per cent is not over and above the 5 per cent, is it?

Mr. HULL (Cook). Yes, sir.

Mr. MACK (Hancock). Then it may be a total of 20 per cent?

Mr. HAMILL (Cook). No, 15 per cent is the aggregate; 10 per cent in addition to the 5.

Mr. MACK (Hancock). That is the question that I was asking. What is your answer to that question, Senator, that 15 per cent is over and above the 5, or including the 5?

Mr. HULL (Cook). "An amount not at any time exceeding in the aggregate 15 per cent of the full taxable value of the real estate therein." Now, that is limited to the purpose of acquiring, constructing, owning, leasing, maintaining and operating an income producing public utility, and I think, notwithstanding the dissent of my distinguished colleague, Mr. Hamill, that that means in addition to the 5 per cent.

Mr. MACK (Hancock). It means 20 per cent, then?

Mr. HULL (Cook). Yes, sir.

Mr. MACK (Hancock). Now, then, Senator, am I correct in this, that they may borrow up to 20 per cent for the purpose of purchasing the public utility?

Mr. HULL (Cook). They may borrow up to 5 per cent now on general assessed valuations for anything.

Mr. MACK (Hancock). And now 15 above that.

Mr. HULL (Cook). And they are now authorized, or would be under this proposal, to borrow in addition 15 per cent upon the taxable value of real property, for the purpose of financing an income producing public utility.

Mr. MACK (Hancock). Then the bonds that might be issued on that public utility when it was purchased could not be in excess of the amount indicated in here?

Mr. HULL (Cook). I think there is a misapprehension on your part in the way you put your questions. You say the bonds that may be issued upon that public utility. These bonds are full faith and credit bonds. They are not lien bonds. I am not sure that there ought not to be an authoriza-

tion for the issue of lien bonds which are liens upon the property only, but the bonds authorized to be issued under the provisions of this proposal are full faith and credit bonds rather than lien bonds, and the reason for doing that was simply this, than a lien bond which is a lien upon the property only has to pay a very much higher rate of interest than a bond which is a full faith and credit bond of the municipality, and has the taxing power behind it. The full faith and credit bonds will sell in the market now, I suppose, at an interest rate probably of two per cent less than a lien bond would sell for, so that if a municipality went into the ownership and operation of a public utility at all under the provisions of this article, it will go in under the most favorable circumstances so far as the cost of the capital to operate the property is concerned. It will be able to get the money at the least rate and be charged with the least carrying charge, so far as the interest is concerned.

Mr. MACK (Hancock). But any bond issued must be within its limit?

Mr. HULL (Cook). Yes, sir.

Mr. MACK (Hancock). And there can be no indebtedness incurred above that limit?

Mr. HULL (Cook). No, sir.

Mr. MACK (Hancock). Now, Senator, I don't know whether you have stated it, but it has been stated here on this floor, as I understand—I don't want to misquote any one—that this provision of yours prevents the doing of some things that might be done under the present Constitution, and that it provides a limitation and a safeguard to the people from doing things which might be done if this were not made a part of the Constitution. Have I made myself clear?

Mr. HULL (Cook). Well, I think statements of that kind have been made, yes.

Mr. MACK (Hancock). What do you say about that? I am interested in that statement.

Mr. HULL (Cook). What you are driving at, I take it, is this, that if a municipality goes into the business of owning and operating an income producing utility under the provisions of this proposal, it must, if it is possible in any way, operate that utility so that at the end of the 30 years referred to in section 9 it will have paid off the principal of the debt and interest on that debt, without having to go into the corporate fund for the purpose of paying that, without having to tax the people of the municipality for the purpose of paying that debt. It will have to pay it out of earnings, if it is financially possible to do it, because if it was not paid out of earnings from year to year as provided in the proposal, it will be possible, as provided in one of the late paragraphs of section 11, for a taxpayer to go into court and compel the raising of service rate to such a figure as will enable the municipality to pay it off out of earnings.

Now, that is the safeguard which this proposal provides. So far as the present law is concerned, there is no such safeguard. If a municipality has the borrowing power which will enable it to go into the business of owning and operating a public utility, there is no provision in the law which will compel the municipality to operate within the earnings of the enterprise itself, there is nothing to prevent its going into the corporate fund, into the general tax levy for the purpose of paying deficits in the operation, and it would be perfectly possible, as was suggested by Mr. Miller, for the legislature, if they are up to their debt limit now, to do what we have done in the legislature in the past, to raise the assessed values from 50 per cent up to 100 per cent of the real values, so that the borrowing power of the municipality would be doubled over what it is now; and there is nothing to prevent the legislature doing what it has done in the case of the City of Chicago in respect to the sanitary district, defeat, as it did in that case, the limitations of the Constitution with reference to the borrowing power of the city—I say defeat; I do not want to use that word, really—go around the provisions of the Constitution by the creation of a new municipality superimposed over the City of Chicago. That legislation gave to the sani-

tary district the same power that the city had with reference to borrowing and levying taxes, and so forth. The creation of that district was for the purpose of evasion of the debt limitations of the municipality and for a very necessary purpose.

I am not condemning the creation of the sanitary district. We had to do it. We needed the sanitary provisions to clear our water for the health of the people of the City of Chicago, but it was a plain evasion of the constitutional provisions with reference to debt limitations.

Now, that can be done today; it can be done not only in Chicago, it can be done with reference to any particular neighborhood in the State of Illinois. And in addition to that sort of an evasion, as I said a few minutes ago, there is nothing to prevent the legislature saying that assessed values shall be 100 per cent of full value and not 50 per cent, and just as soon as you increase your assessed value from 50 per cent to 100 per cent of full value, you have added also to the borrowing power of the municipality. That thing can be done, and when it is done, it is possible for a municipality under the present law to go into the business of owning and operating public utilities. In 1913 we passed an act giving corporate power to the city to own and operate utilities.

Mr. MACK (Hancock). Senator, isn't it true that there has always existed and exists today the right of every citizen, taxpayer, to go into court and to enjoin the attempt of a municipality to do anything that is improper, illegal or unconstitutional? That has always existed, hasn't it?

Mr. HULL (Cook). I suppose so. That is a pretty broad question.

Mr. MACK (Hancock). Is that not true?

Mr. HULL (Cook). I presume it is. I don't know exactly what you mean.

Mr. MACK (Hancock). Suppose a city is about to violate some fundamental law in regard to the revenue law, or is about to violate some fundamental constitutional provision?

Mr. HULL (Cook). I presume that is true, yes.

Mr. MACK (Hancock). And that right has always existed?

Mr. HULL (Cook). I presume that is true, yes.

Mr. MACK (Hancock). Isn't it also true, Senator, that the Supreme Court of this State has held that the debt limit, when you come to the question of an assessment, that the debt limit meant by the Constitution is the amount on which the tax itself is levied, and that if you raise that for the purpose of broadening your debt limit, that you are compelled to levy taxes on that amount and no other?

Mr. HULL (Cook). I think you are right, as I understand your question. I am not sure that I understand your question.

Mr. MACK (Hancock). Hasn't the Supreme Court of Illinois held that that limit is the limit in amount on which the tax is actually levied and extended, and that the Supreme Court of Iowa held otherwise, but that this State stands squarely and pat on that proposition?

Mr. HULL (Cook). I think that is right.

Mr. MACK (Hancock). As equalized. And the very amount on which the tax is levied, isn't that true?

Mr. HULL (Cook). When they increased the assessed value for the purpose of evading the debt limit, we had to pass 50, 60 or 70 bills changing the tax rate in order to prevent the sort of thing you have in mind.

Mr. MACK (Hancock). And the amount that you set out was the amount on which you levied the tax, is that right?

Mr. HULL (Cook). Yes, that is correct.

Mr. MACK (Hancock). Now, isn't it also true, Senator, that most of the ills that now exist in the State of Illinois and in most states of the Union where ills do exist in municipal corporations grow out of the fact that citizens who had the right to the writ of injunction or otherwise have failed to exercise that function and failed to come in and object, and the machinery of government has gone wrong and the ills have developed and indebtedness has been increased because of that?

Mr. HULL (Cook). That is a pretty broad question.

Mr. MACK (Hancock). Isn't that practically true, Senator?

Mr. HULL (Cook). A lot of the ills of government grow out of the failure of the citizen to be on the job, that is true enough. If they were on the job in respect to the election of public officials, we would have better government.

Mr. MACK (Hancock). And he has not heretofore exercised that very right that the law puts in his hands to interfere, and the very power that you are now giving him is the same power that he has always had, isn't it?

Mr. HULL (Cook). No, this is not the same power that he has always had.

Mr. MACK (Hancock). He has always had a right to interfere if he was a taxpayer, with the violation of the functions of public government?

Mr. HULL (Cook). He had a right to interfere with the violations of law, but a municipality can, under the circumstances which I have stated, go ahead and own and operate a public utility without violating the law.

Mr. FIFER (McLean). Mr. Chairman, my high regard for the good sense and judgment of the proposer of these sections inclines me strongly to favor their adoption, but after listening to this extended argument, it does seem to me that these sections do not properly belong in the revenue provisions of the Constitution.

Before we came here, we understood that Chicago was to move for a larger degree of self-government, which was designed, I take it, to control institutions of this kind, railroads, street railways and waterworks, and all such institutions. Now, it does seem to me that that is purely a Chicago question, and belongs to their separate home rule that has been talked of here already in the Convention, and if a majority or any considerable number of the delegation from Cook county favor this proposition, and an amendment is inserted that it shall apply only to the City of Chicago, which can easily be done, I will vote for it, but if it is applied to the whole State, I shall vote against it, for two reasons:

One is that I do not believe it properly belongs in the revenue provisions of the Constitution; and, in the second place, it belongs to Chicago's home rule. Now, I would not want it to apply to the City of Bloomington. We have no use for it, and yet should it become the law, it might cause a great deal of trouble, and I take it that is true of all the cities of the State outside of the City of Chicago.

I read before it was introduced the provisions, and there are many good things in the proposal when confined to the City of Chicago. When it comes to levying an additional tax of 15 per cent, which would raise—somebody has made the calculation, I believe the member from Princeton has calculated it would raise 400 millions of dollars in the City of Chicago. Now, that is appalling, especially at times when we are trying to economize and cut down indebtedness. So I think that this question should go along with the other question of Chicago home rule, and if it is confined to that, and the delegation from Chicago favor it, they shall receive my support.

Mr. HULL (Cook). Mr. Chairman, I want to propose an amendment to proposed section 9.

AMENDMENT No. 39.

Amend proposed section 9 by striking out the words "and other public utilities" where they appear in line 5 thereof.

Mr. HULL (Cook). My purpose in offering this amendment to strike out those words is to have it perfectly clear to the members of this Convention that this proposal is applicable only to such public utilities as are specifically mentioned here, transportation, communication, light, heat, power and water. The words, "other public utilities," are uncertain, and the question as to what is a public utility in itself is not always certain, and for the purpose of getting away from that ambiguity which has troubled some of the members of this Convention, I offer this amendment.

(Amendment adopted.)

Mr. SUTHERLAND (Cook). Mr. Chairman, I would like to ask the delegate from Hancock, who a few moments ago was questioning the delegate from the Fifth district, a question: Does he think that a taxpayer now can go into court under these conditions and ask for an injunction? A city acquires and operates an electric light plant. Because it cannot or does not run that plant on a self-sustaining basis, it runs a deficit and puts part of the charges for the operation of that plant, either directly or indirectly, as charges against the general corporate fund, so that the taxes, to maintain the general corporate fund and provide for it, are increased. Virtually, you are increasing your tax rate because of the operation of that utility. Does the delegate from Hancock think that a taxpayer under those conditions has any ground upon which he can go into court and seek to enjoin the collection of that tax?

Mr. MACK (Hancock). My answer to that question is this: The courts have distinctly held that any questions that relate to the general judgment and discretion of the public official, that that lies entirely within that discretion, unless there is a gross abuse of it. The operation of the writ issued by the court is confined entirely to a case where there is the violation of some legal or constitutional provision.

Mr. SUTHERLAND (Cook). Then, Mr. Chairman, I wanted to know if the gentleman does not think that if this provision were written into the Constitution, it would be a desirable thing because that sort of thing under this provision would be a violation of a constitutional provision, and would give the taxpayer ground to go into court?

Mr. MACK (Hancock). So far as I have been able to learn in the limited time we have had this, it seems to me that if the provisions of Senator Hull were placed in your Constitution, and the requirements that are named in the same, that there would exist under the law, independent of any provision in here—if that were violated, a resort to the writ of injunction to restrain the improper exercise of the functions of an official of a body politic in violation of the law of the Constitution.

Mr. SUTHERLAND (Cook). It would then be better than the present situation and safer for the taxpayer, would it not?

Mr. MACK (Hancock). I cannot see personally that it adds much to it. I may be mistaken; I don't want to say that I am right, but as far as I am able to see, I cannot see that it adds much to it.

Mr. MILLER (Cook). Mr. Chairman, I move an amendment to Section 9.

AMENDMENT No. 40.

Amend proposed section 9 in line 5 between the word "them" and the word "any" the following words: "The General Assembly may by general law authorize" and insert the word "to" in place of "may" in line 6.

Mr. MILLER (Cook). Now, gentlemen, if that amendment prevails it will mean that there must be action by the General Assembly before this procedure may be taken anywhere in the State. That is the thing which it has seemed to me from talking with various delegates down the State, that those delegates fear for their own localities and concerning which fear there is possibly a good deal of justification. In other words, the fear is that the municipalities will plunge into this hastily. If this goes through, they cannot do it without action by the General Assembly, and the situation in that regard would then be the same as it is today, because today they may go into the public utility business by action of the General Assembly, and without any change in the Constitution as I undertook to explain last night.

Mr. CARLSTROM (Mercer). May I ask the gentleman a question? This occurs to me: Would that not authorize the legislature to pass a separate bill for every city that applied, unless you add after the word "authorized" the words "by general law?"

Mr. MILLER (Cook). I think not, because they are now prohibited, the legislature is, from passing any special law.

Mr. CARLSTROM (Mercer). Wouldn't a specific constitutional authorization override any other limitation in the Constitution?

Mr. MILLER (Cook). Yes. If this language here would authorize special laws, then you are right. I would not suppose the language would do that.

Mr. CARLSTROM (Mercer). Well, taken independently, it would read like this, would it not: "The General Assembly may authorize any city to issue:" And isn't that certainly a broad authorization for special legislation?

Mr. MILLER (Cook). Well, it is possible. I do not so regard it, but if so, I am perfectly willing to have the words inserted there, "may by general law authorize cities and other municipalities."

Mr. HULL (Cook). Won't you have to change line 3?

Mr. MILLER (Cook). Why?

Mr. HULL (Cook). There it speaks of "law authorizing the construction, ownership and maintaining and operating of income producing public utilities."

Mr. MILLER (Cook). I think not, because that means simply the authority to own and operate public utilities which now exist. That authority now exists. In other words, the legislature has already authorized municipalities to go into the public utility business. Now, however, the legislature under this would have to take a further step to make financing possible. That is what this does. I don't think that that cuts any figure. Unless there is objection, I want to insert "by general law" after "may."

Mr. HULL (Cook). Well then, let me understand, Mr. Miller: Your act of the legislature which you are contemplating here, is simply an act authorizing municipalities by general law to issue bonds under the provisions of this proposal for the purpose of financing public utilities, and the act is not a grant of corporate power to do it? It is simply an authority to issue bonds and incur debts under the provision of this article, is that right?

Mr. MILLER (Cook). The legislature has got to act in this matter before any municipality can take advantage of this section, that is the idea that I had in mind.

Now, let me say just a few words in this matter: I do not pretend to speak for the other members of the Cook county delegation here. My guess is that those members of the Cook county delegation now in attendance here are, with practical unanimity, opposed on principle to municipal operation of street railways. I may be wrong. I know that my view is that the late experience with the operation of the railroads by the government is not very promising for this sort of an enterprise, but, as stated yesterday, we in Chicago, at least, have a condition to deal with.

I read in this morning's paper a dispatch from French Lick which quotes our Governor-elect as saying:

"The first duty of the administration, as I see it, is to keep its platform promise to the people to repeal the Public Utilities Act, and to aid Chicago to the extent of my ability in securing a five cent fare through what is known as the Thompson plan. I wish to see the General Assembly so organized that these pledges can be redeemed readily. I am certain that that is the view not only of Republican leaders in Chicago, but also of the voters of the State as expressed in the recent election."

That was the expression as he interpreted it. Now, the Thompson plan that he refers to, and which the legislature will be asked to carry out, is the creation of a traction district—they don't need any change in the Constitution, as explained here last night—which will have a borrowing power of nearly 200 million, and with that borrowing power and the condemnation of the traction lines before a jury of street car patrons and other taxpayers

in Chicago, they hope to get all of the traction lines and elevated lines for that sum of money or less. Now, if they do, there will be no restrictions whatsoever and a part of the Thompson platform and five cent fare, to which the Honorable Governor-elect refers, is that they use the five cent fare to go as far as it will reach in paying the expenses of operation, and that the rest be paid by general taxation. That is the plan.

That is not a plan which appeals to me. There is not any public operation plan of the street car lines in Chicago that I feel appeals to me. For that reason I should like to see this Convention restrict the power of the General Assembly to create new tax levying and debt creating districts, and, as I said before, we have put something of that kind in the Chicago article. We are just as generous as you people down State. We are willing to see you get the benefit of that if you like, and if so, that of itself would stop the legislature, would take away the power it has now of permitting municipalities without any amendment to the Constitution to go into the traction business, whether they are in Cook county or elsewhere, and this would enable us to say to the people of Chicago, "We have nevertheless provided a safe and sane plan which the voters may vote in if they see fit to do so," and if this Constitution is adopted with this revenue article as it now stands, we hope to have in Chicago a very much larger percentage of the voters who are taxpayers than now exists. My understanding is that at the present time we have one taxpayer to every five voters.

And with that explanation, I present this amendment to section 9, and if section 9 is adopted, why, I will present amendments to the other sections here to make them correspond to this amendment.

(Amendment adopted.)

Mr. QUINN (Peoria). I desire to offer the following amendment to section 9.

AMENDMENT No. 41.

Amend proposed section 9 in line 5, by striking out after the word "city" the words "or other municipal corporation."

Mr. HULL (Cook). May I ask Delegate Quinn a question? You would not have any objection to any city, village or incorporated town having these privileges, would you? What you have in mind is special districts like the sanitary district, as you suggested yesterday?

Mr. QUINN (Peoria). Here is the point I had in mind. The City of Chicago controls Cook county, and if this was brought to the county, the city would have the power to tax all the property in Cook county to rehabilitate the traction system. I think your suggestion is wise, Senator, and if we conclude to adopt your suggestions, we ought to put in another section to have it include cities, villages and towns. My notion is to just test out the sentiment here as to whether or not the committee is ready to go on record in having that broad enough to include all municipal organizations.

Mr. HULL (Cook). Then I have this further question in my own mind: Supposing a municipality should be created by law for transportation purposes, your inhibition does not apply?

Mr. QUINN (Peoria). I cannot see what you mean by that.

Mr. HULL (Cook). Well, it would only apply to a city, but it would not apply to a municipal corporation created for transportation purposes.

Mr. MILLER (Cook). Why should it be necessary to create a traction district?

Mr. HAMILL (Cook). Mr. Chairman, may I ask the delegate from Peoria a question? Would the purpose you have in mind be accomplished if there should be added a prohibition something like this: "In estimating the limit of indebtedness of any municipality, the debt of any other municipality occupying all or part of the same territory shall be deducted?"

Mr. QUINN (Peoria). I think so. While we are on this question, I will try and answer that question indirectly. I want to say that I am in favor of allowing the experiment along the broadest and most advanced lines for Chicago, or any other city that feel they want to go into these utility industries or propositions. I understood from the statement of Mr. Miller yesterday that it would take practically \$400,000,000 to complete the scheme that is thought to be necessary to give Chicago adequate transportation facilities. I think that this relief, as it is designated, is demanded by Chicago. They seem to be handicapped by this taxing limit or debt creating limit, and they think that 15 per cent of the real property will about reach their \$400,000,000 necessary capital.

While I am perfectly willing to do everything I can for them that they want to do, and let them tax themselves—possibly I may say that every city in the State might in justice have the same right. In that connection, however, I want to call your attention, because it is often considered a proposal on any of these amendments—to a condition that will arise if the City of Chicago goes into this enterprise with the 15 per cent limit.

Chicago will place an annual tax upon all the property of the State of Illinois equivalent to at least \$1,000,000 a month. I say it advisedly. If \$400,000,000 is required to capitalize the traction system of Chicago, it means that private capital will step out of the way, and that the municipal capital will step in and municipal property will be owned, and \$400,000,000 of municipal bonds will be issued that will not be taxed in the State of Illinois, and \$400,000,000 will escape taxation. Based upon the tax rate of the City of Chicago, which is about two and a half to three per cent, it is equivalent to requiring the rest of the State to contribute from 10 to 12 million dollars a year to allow Chicago to conduct its experiment, and that goes on for every year. Private capital steps out and we lose the annual franchise tax that private capital would have to pay, which is equivalent to \$150,000 a year. We lose also the incorporation fees of \$200,000 a year that private capital would have to pay, and we lose the revenue that now comes to the State of Illinois for authorizing the bond issue of \$400,000,000—we lose a revenue to the State of \$400,000. Now, this proposition carries an experiment that requires the people of the State of Illinois to contribute to Chicago at least \$12,000,000 every year for as long as the State may live. It starts out with losing the \$150,000 a year franchise fees for every year, and it at the start waives \$200,000 of incorporation fees, and \$400,000 revenue that would come to the State through the issues of these bonds.

Mr. HULL (Cook). May I ask the gentleman a question? Where does this \$400,000,000 or other private capital go? It is not destroyed.

Mr. QUINN (Peoria). Why, no.

Mr. HULL (Cook). It exists in the community, and is a taxable estate in the community.

Mr. QUINN (Peoria). I don't know what may become of that \$400,000,000. Say that the bankers of Chicago buy the bonds. It is tax exempt.

Mr. SUTHERLAND (Cook). Will the delegate yield to a question? Where does he find in the present Constitution or in the proposed revenue article of the new Constitution any authorization for the exemption of municipal bonds from taxation?

Mr. QUINN (Peoria). I am told that it is in the Cities and Villages Act, or in some of your amendments here, that cities may make their bonds tax exempt.

Mr. SUTHERLAND (Cook). If it is in any article, I want to find it and have it taken out, Mr. Chairman. I object strenuously to the exemption of public securities from taxation.

Mr. QUINN (Peoria). Isn't municipal property exempt from taxation under our present law?

Mr. SUTHERLAND (Cook). Municipal property, Mr. Chairman, but these bonds would be the property of the bond holders, and they are held to be taxable.

Mr. QUINN (Peoria). There will be \$400,000,000 of the property in Chicago, that is now privately owned, that in the future will be owned by the municipality of Chicago only.

Mr. SUTHERLAND (Cook). Of the tangible property, yes, sir, but not of the bonds.

Mr. QUINN (Peoria). All right. Then put it on that basis, you would lose that revenue.

Mr. MILLER (Cook). May I ask the gentleman a question? The figuring, to my mind, is very interesting and very, very cogent, but I am wondering if the gentleman has in mind some way that this convention can protect down State from that very thing by means of the traction district which I have just called attention to, and which apparently is being pushed and advocated right now by our new Governor-elect—because that would furnish a means of investing \$200,000,000.

Mr. QUINN (Peoria). Pardon me, if I say it. I did not hear what you read down there, Mr. Miller.

CHAIRMAN WHITMAN. Gentlemen, I think we are getting a little out of order in our procedure.

Mr. QUINN (Peoria). I would like to answer the gentleman's question. CHAIRMAN WHITMAN. Very well, and then I will make my point.

Mr. QUINN (Peoria). The City of Chicago is now going into business with \$400,000,000 of capital. It is a business enterprise. It is not erecting a city hall or furnishing the police force or a fire department, but it is going into business, and that business should bear its just proportion of taxes the same as those conducted by private enterprise.

Mr. MILLER (Cook). I think you are right. Now, what I was saying is this: As I pointed out, under the present Constitution the legislature may create a traction district which will have the power to issue nearly \$200,000,000 of bonds and buy all, I think, of the surface and elevated lines in Chicago and go into the business right then under the present Constitution. They may do it now, and isn't that the answer to what you say? In other words, this thing is not going to enable them to do it. They can do it anyhow. Now, if you can find some way to keep the City of Chicago through this method I have pointed out from going into the traction business in the way that is advocated by the Governor-elect, I shall try to help you.

Mr. QUINN (Peoria). Well, I think whether it is \$200,000,000 or \$400,000,000, it is in the nature of a business enterprise, and that it should not be a tax exempt proposition. The City of Chicago can tell the rest of the State to bear the burden.

CHAIRMAN WHITMAN. Delegate Quinn, do you offer your amendment as an amendment to an amendment? Delegate Miller has an amendment before the convention.

Mr. QUINN (Peoria). I thought that was adopted.

CHAIRMAN WHITMAN. All right. Delegate Quinn's motion is in order.

Mr. DEYOUNG (Cook). May I ask the gentleman from Peoria a question? Your amendment ought to apply also to lines 10 and 11, ought it not?

Mr. QUINN (Peoria). It should apply all along in the act. This is the first place that we reached. If it is adopted at this time, I will offer it at all places in the act.

(Amedment adopted.)

Mr. QUINN (Peoria). I desire now to offer another amendment.

AMENDMENT No. 42.

Amend proposed section 9 by striking out in line 10 after the word "city" the words "or other municipal corporations."

Mr. HAMILL (Cook). Mr. Chairman, I think we will get into difficulty if we do that. I raise the point of order that we are now considering section 9 only, and the amendments to sections 10 and 11 are out of order.

CHAIRMAN WHITMAN. The point of order is well taken.

Mr. QUINN (Peoria). I move to amend line 10 by striking out after the word "city" the words "or other municipal corporations."

(Amendment adopted.)

(Section 9 as amended carried.)

CHAIRMAN WHITMAN. Section 10 has been read, and we will proceed to its discussion.

Mr. HULL (Cook). Has that been read separately?

CHAIRMAN WHITMAN. It has not been read separately, and it should be read separately.

(Section 10 read.)

Mr. HULL (Cook). I move the adoption of the section.

Mr. HAMILL (Cook). I desire to give notice that I shall at the appropriate time offer an amendment which will read: "No municipal corporation shall incur any debt for acquiring, constructing or operating any public utility unless provision shall be made for the payment of such debt and interest thereon as in section 9, 10 and 11 of this article provided." This will prevent, in my judgment, the putting into operation of the so-called Thompson plan.

Mr. GEE (Lawrence). I desire to offer the following amendment.

AMENDMENT No. 43.

Amend proposed section 10 by inserting in line 9 the words "vote of three-fifths" after the word "by" and strike out the word "majority."

(Amendment adopted.)

Mr. QUINN (Peoria). I desire to offer the following amendment.

AMENDMENT No. 44.

Amend proposed section 10 by striking out in lines 2, 5 and 10, the words, "or other municipal corporations."

(Amendment adopted, and section 10 as amended adopted.)

(Section 11 read.)

Mr. REVELL (Cook). In voting upon these separate sections, is it the understanding that these are not endorsed for approval into the revenue bill, but that we will afterwards vote upon the whole proposition?

CHAIRMAN WHITMAN. That is not my understanding.

Mr. HULL (Cook). There will be a motion to adopt the entire revenue article, including these provisions, which will come later.

CHAIRMAN WHITMAN. My understanding is that as we have gone along we have voted that the sections upon which we have voted shall be incorporated into the revenue article as a part of the law.

Mr. REVELL (Cook). Then I want to give notice that at the proper time I shall move a reconsideration of the action on these articles upon which I voted in the affirmative.

Mr. HULL (Cook). If it is necessary to move to adopt the section, I make that motion now. A question was raised about the provision of the last paragraph of this section. I believe the courts have held that the provisions with reference to section 12 of the present revenue act, which are practically the provisions of section 8 of the proposed new revenue act, are self-executing in this sense, that wherever the provisions of that section require an extension of the taxes for the purpose of paying interest and principal of an obligation, the standing taxing authorities, whoever they may be, are required under the authority of that particular constitutional provision to extend the taxes on the tax warrants without any other statutory provision.

It was desirable to have the provisions of this article the same, and inasmuch as in section 8 nothing is said about the provisions of the section being self-executing, it was apprehended that a statement of that kind introduced here might by possible construction lead to the conclusion that this convention, so far as section 8 is concerned, did not intend that they should be self-executing. Therefore, mention of section 8 is made in this section, as well as sections 9, 10 and 11.

CHAIRMAN WHITMAN. Delegate Quinn has been recognized to offer an amendment.

Mr. QUINN (Peoria). I desire to offer the following amendment.

AMENDMENT No. 45.

Amend proposed section 11 by striking out in lines 1, 14, 17, 18 and 33, the words "or other municipal corporation" after the word "city" in each line.

Mr. WALL (Pulaski). I think there has been some neglect here in all of the sections, if the amendment of Delegate Hull carries. If it did carry, I want to move to amend further the other sections, and desire a point of information on that. "For the purpose of acquiring, constructing," and so forth, "such income producing properties" as the law provides, "light, heat, power, water and other public utilities"—was that stricken out?

Mr. HULL (Cook). "Other public utilities" was stricken out by amendment.

Mr. WALL (Pulaski). If that is true, in section 10 you say, "for the purpose of financing any income producing utility." Should not the words "authorized by the provisions of section 9" be therein added, in section 10?

Mr. HULL (Cook). I think very likely that might be properly in there.

Mr. WALL (Pulaski). And in several other places in this section, because this would authorize the issue of bonds for any public utility, which would be contrary to the provisions, as amended, of section 9.

CHAIRMAN WHITMAN. The question is on Delegate Quinn's amendment.

(Amendment adopted.)

Mr. QUINN (Peoria). I desire to offer another amendment, to be inserted between lines 17 and 18 as a new paragraph. Mr. DeYoung asked Mr. Hull yesterday if it was his idea to make these properties self-sustaining, so that there should never be any drains upon the treasury of the city through its regular taxing sources for funds to maintain the property. The provisions in section 11, down to and including line 17, provides for the payment of money into this fund in anticipation of taxes. There might a time come when there would be a deficit arising through the misappropriation of funds, or something of that sort, and there must be a provision here that if there is a misappropriation or loss of that fund, the city is not relieved of its liabilities. The thought struck me that the bondholders, the people financing this property, might rely on this last phrase here, and assume that they could collect their money from the city taxes generally, and not have to resort to this particular fund, or the fund raised by this utility property. My amendment is to the effect that the general taxes or special taxes may never be used for the purpose of making up a deficit created in that fund either through loss by misappropriation or theft, or coming from a loss in operation.

AMENDMENT No. 46.

Amend proposed section 11 by inserting between line 17 and 18 a new paragraph reading as follows:

"Any deficit so, or otherwise created through or on account of such utility shall not be paid from the general or other funds of said city nor create any liability against said city which may be satisfied by taxes gener-

ally or specially levied, but the same may only be paid from the revenues coming to said city through such utilities."

Mr. HULL (Cook). That would absolutely kill the whole proposition. You can give absolutely no positive guaranty with respect to anything in government. It is the purpose of this proposal to make it as far as possible a self-sustaining proposition. Now the gentleman from Aurora, Mr. Mighell, asked me yesterday whether there might not be a situation where, in case the service rate was increased, the diminution in the use of the utility would be such that the additional earnings created by an additional service charge would not equal the loss occasioned by a diminution in the use of the service. That is always possible and there is no absolute guarantee that you can make a proposition of this kind a self-sustaining proposition. That is one answer to your question. The purpose of it is to make it as far as legally possible a self-sustaining proposition, but there can be absolutely no positive guarantees under all circumstances.

Another answer to your proposal is this, that these bonds were made full faith and credit bonds for the purpose of enabling the municipality to get the lowest interest charge possible to obtain in the flotation of any such loan for the purpose of financing any such utility. If you put into the proposal a provision that no tax can be levied for the purpose of paying the principal and interest on any such bonds, you will have made it impossible to get the low rate of interest which you can get upon a full faith and credit bond, and you will have destroyed immediately the value of the proposition, in making this proposal succeed in any municipal venture. Now, as a matter of good faith to the proposal, it ought not to be adopted. If we want to kill any municipal ownership operation, we can do it by loading it with a heavy charge. That would be one way of killing it. If we want to give the thing a fair trial, we ought to make it possible for the municipality to operate at the lowest rate of interest, and we can only get low rates of interest on full faith and credit bonds. The bonds would cease to be full faith and credit bonds if the amendment offered by the gentleman from Peoria should prevail.

Mr. QUINN (Peoria). I am sincere in this. I assume you want to get out of the fund this 15 per cent you are asking for; you want to get enough to operate and finance this road, and you are providing here in section 11 that it will always be self-sustaining, by providing that the courts can come in and raise rates and fix terms of service so as to always keep this property self-sustaining.

Mr. HULL (Cook). As far as possible.

Mr. QUINN (Peoria). Yes. Now, you never contemplate using the general fund, 5 per cent of the city's money, do you, to maintain and operate this system?

Mr. HULL (Cook). Why, I should hope it would not be necessary.

Mr. QUINN (Peoria). Then why do you use the language in line 26, that it should be so operated as to provide at least sufficient to discharge certain of its obligations?

Mr. HULL (Cook). It was considered that a situation might arise where the enterprise was paying cost of operation, interest on bonds and also the portion of the principal maturing from year to year, and something more, so that there was a little additional revenue in the treasury of the city coming out of the operation of the utility. It is deemed desirable that that fact should not be made the basis for a demand that the service rates should be lower, until also provision had been made for keeping up and maintaining reserves for repairs, renewals and maintenance of the plant in first class condition.

Mr. QUINN (Peoria). I notice that in the items there you are providing for, like repairs and renewals, you make no reference to laying any fund aside or creating any account for depreciation, which would run from 3 to 10 per cent on the cost of your property.

Mr. HULL (Cook). Repairs and renewals would naturally cover that, I should think—renewals necessary to maintain the property in first class condition in every respect at all times.

Mr. QUINN (Peoria). Well, if you want to be satisfied about it, it ought to include the depreciation on the property, which exists on all these properties, above the items of renewal and repair. I do not know how the depreciation would be computed on a street railway line, but it would be considerable.

Mr. HULL (Cook). I want to call attention in connection with that question to lines 31 and 32. That is the particular provision I have in mind at this moment. It would probably be necessary if any municipality on a large scale undertook municipal operation and ownership, to have some legislation. It would probably be desirable to have a provision for the establishment of some sort of an engineering board, by which the proper maintenance of the plant could be determined. It is conceded that probably it would be necessary to have additional legislation of that kind. That board would likely have within the sphere of jurisdiction the question of maintenance and repairs and depreciation, and the proper service charge for that purpose.

Mr. QUINN (Peoria). I assumed from your remarks yesterday that you had a scheme here that was so comprehensive that it would allow of no resorting to the general fund or general taxing powers to maintain it. It is very apparent from your statement now that you contemplate that a condition may arise where the general funds of the city may have to meet a deficit.

Mr. HULL (Cook). Well, it is conceivable. I hope it may not be, and I do not think it likely would be, but here is the situation, contemplated by the paragraph that you read over here on page 2, where the money is put on deposit with the city treasurer four months before the time for payment of the principal and interest, and where for some reason it was appropriated by the city officials, and used for some other purpose. Good faith to the purchasers of the bonds would demand that the city be not released from its obligation. It must compel its public officials to keep the fund intact for the purposes for which it was set aside. I do not contemplate that in the ordinary financial administration of a city, where funds are set aside for that purpose, they would be appropriated for any other purpose. They would be there. They would have to be maintained, and any administration in any municipality that allowed the fund to be misappropriated to any other purpose, would be politically dead from that time on.

Mr. QUINN (Peoria). I do not care about the destinies of the political party or the council that may authorize it, but I do know that you have in Chicago a certain provision now in some ordinance, giving the city 55 per cent of the net revenue from street car operation, and I have seen it stated in the press that that fund amounted to about \$25,000,000. I have also seen it stated that that fund has been used for other corporate purposes.

Mr. DAVIS (Cook). I think delegate Quinn's amendment reaches the very heart of the whole situation, and deserves the closest possible attention at the hands of the convention. By this proposal, if adopted and put into execution, three different sets of relations are created. First, the relation between municipality and the users of the particular utility affected. Second, the relation between the municipality and the taxpayers at large, whether they are users of the particular utility or not. Third, the relation between the municipality and the holders of the obligations of the municipality with which the funds are to be raised to acquire the business, if it is to be operated by that particular municipality. As to the first relation, it is proposed to provide machinery, and to have recourse to the courts, whereby the users of that utility may be made to pay a sufficient sum to operate that utility without any deficit. But admittedly a provision must be made whereby in case of a failure on the part of the users to provide sufficient funds, the taxpayers at large must be made to pay enough money through taxation to meet the obligation created by the issuance of the bonds. That

is necessary in order to make it possible to create the third relation between the municipality and the holders of the bonds.

It has been admitted throughout all of the discussions in the different committees that bonds could not be placed on the market, and money could not be raised by any municipality for the acquisition of any utilities, unless they were full faith and credit bonds; and I want to call to your attention that it is not altogether a question of rates. You put those rates of interest as high as you please, and I challenge any one to produce any financial institution which would undertake to finance or purchase bonds, the principal or interest of which are payable out of the income of the utility itself.

Mr. QUINN (Peoria). A municipally owned plant?

Mr. DAVIS (Cook). Yes. So it is not a question of rates of interest. If we are to allow municipalities to acquire utilities, we must take it for granted that the obligations to be issued by those municipalities must be of the kind generally known as full faith and credit obligations; that is, that the taxpayers and the owners of the property are back of the particular obligations issued by the municipality. If we do that, we must make certain that notwithstanding the obligation of the municipality to raise out of those utilities enough money to meet the obligations, the holders of the bonds can hold the municipality, in the sense of the property within the municipality and the taxpayers of the municipality responsible for the obligations created.

So it seems to me the scheme suggested by my colleague is quite ingenious in that it makes it possible to finance the municipally owned utility, in the sense that the municipality is back of the obligations, and the taxpayers have upon themselves the burden of meeting the obligations, and at the same time, as far as the human mind can devise, enough machinery has been contemplated, and the provisions for the creation of that machinery enumerated, to make the users of that utility pay the required amount to meet the interest as well as the principal of the bonds which the municipality must issue at the time it acquires the property. So the amendment offered, if adopted, would make it impossible for the municipality to dispose of the bonds after they are issued, because the purchasers of the bonds would call attention to the fact that after all it was the property itself which was responsible for the payment of principal and interest, and not the municipal corporation creating the debt.

Mr. QUINN (Peoria). Does not this very act provide that the courts can compel the utility to earn this money?

Mr. DAVIS (Cook). That is, to make the user of the utility pay his proportionate share to bring about that result. But the financial institution advancing the money to the municipality is not going to rely on the power of the courts or on the results to be obtained by the operation of the courts. The financial institution which is going to furnish the money for the purchase of these bonds is going to insist that irrespective of any machinery provided, it have the absolute assurance that it is a full faith and credit obligation in the sense that even though the municipality fails to raise sufficient money from that particular utility, it will utilize its general taxing powers, and will subject the property of that community to taxation to meet the obligation created by the bonds.

Mr. MILLER (Cook). There are only two ways possible, so far as I know, of issuing bonds on a public utility that will sell. One is lien bonds, which will give the purchaser of the bonds a right to foreclose and take over the property, and the other is a full faith and credit bond of the municipality. Now, my first reaction to this matter was to insist that these bonds be lien bonds and not full faith and credit bonds; but on reflection this thing plainly appeared, that if the city went into the public utility business, took it over and issued only lien bonds, which would give the purchaser the right to foreclose and take over the utility, not putting the credit of the city behind them, you would have a bond exactly equivalent to a bond issued by a privately owned public utility corporation that did not have a single dollar of assets itself, but issued bonds; they might capitalize for \$100, and go on and issue bonds to the full purchase price of the utility.

Now, obviously that kind of bond would not sell at anything like a fair rate. You might possibly get 60, 65 or 70 cents on the dollar in a good market, but that is all you could possibly get, because a purchaser would not have a single thing except the utility to go back on, and that utility would be bonded to the last full dollar of its value, and perhaps more. Now, that is an objection that is vital to making them lien bonds and nothing else. Now, if we do not make them lien bonds, and on the other hand do not make them full faith and credit bonds, but simply give the purchaser the right to rely upon the income, knowing and realizing that there is a situation whereby, through bad management, the rates cannot be pushed up to a point where they will pay all expenses, interest, and so forth, and he will not get his money, the result is that the purchaser would say, "I have no lien; I cannot foreclose; I have not got the credit of the city, and I may never get the money at all"; and the result is, of course, that would be the poorest bond you could possibly offer for sale. The result would be that when we went before the people with this Constitution, claiming to offer a means whereby the public might go into the public utility business claiming that we had furnished a safe and sane method for so doing, hedged about by proper restrictions, it would be charged, and justly charged, against us that when we put it into the Constitution we knew it could not possibly be operative, and we would be subject to the charge, and justly so, that we had not been either frank or fair. For these reasons I trust the gentleman will withdraw his amendment.

Mr. DAWES (Cook). In order to clarify this question in my own mind, and perhaps the minds of others, I should like to ask: If the bonds were lien bonds, and the property failed to make such earnings as to comply with the conditions of the bonds, then would foreclosures take place and the property pass?

Mr. MILLER (Cook). If they were lien bonds.

Mr. DAWES (Cook). If the bonds were issued upon the general faith of the municipality, and the property should fail to make the earnings required to sustain the bonds, then there would be no grounds for foreclosure?

Mr. MILLER (Cook). No.

Mr. DAWES (Cook). The question is, has any provision been made in this plan that would give authority to the city to part with this property after it has once been acquired. I am not in sympathy with the proposal that is made. I believe that this plan is a very carefully worked out plan and that it is likely to succeed; but the best laid plans sometimes go wrong; and if, with all of the conditions named in this plan, and with the regulation established by the courts, the property should still fall short of earning the amount of money necessary to sustain the bonds, and the community should want to sell the property, then I think this plan ought to contain some provision whereby the city would be given authority to part with this property if it cared to do so.

Mr. HULL (Cook). I think the city would have to get its corporate power to sell from the legislature. I think that concerns the question of corporate power to sell and dispose of a city asset. I do not have any doubt but that it could get that corporate power to sell and dispose of an asset, if after an experiment in the ownership and operation of the utility it concluded it wanted to get out of the business.

Mr. KERRICK (McLean). Mr. Miller, these utilities are now owned by corporations, and not by the taxing body of Chicago. They, of course, had to negotiate bonds in enormous amounts, did they not?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). No provision was made, in case their earnings were not sufficient to pay, that the taxpayers should help out, was there?

Mr. MILLER (Cook). No.

Mr. KERRICK (McLean). Those bonds sold, did they not?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). Did they sell much below par?

Mr. MILLER (Cook). They sold about par, but they had more assets behind them. The bonds did not represent the total value of the properties.

Mr. KERRICK (McLean). Was there any individual liability?

Mr. MILLER (Cook). No, but the bonds did not represent the total value of the property.

Mr. KERRICK (McLean). How much did they lack of that?

Mr. MILLER (Cook). It was not the situation of a man putting a mortgage on the farm for every dollar he paid for the farm.

Mr. KERRICK (McLean). Is it not true that in every instance where bonds of public utilities are offered—and there are many of them on the market, as we know—the purchaser has to depend entirely on the success of the enterprise?

Mr. MILLER (Cook). Well, they are enabled to foreclose, but always, as I understand it, they have some assets aside from what is represented by the par value of the bonds sold.

Mr. KERRICK (McLean). You mean the property is ostensibly of greater value than the total bonded indebtedness?

Mr. MILLER (Cook). Yes, and that is some security that the bonds will not have to be foreclosed.

Mr. KERRICK (McLean). That is the only thing, then, that stands between the creditor and a loss?

Mr. MILLER (Cook). Yes, just the same as a mortgage on a farm.

Mr. KERRICK (McLean). Then no matter how valuable the property may be, or may be estimated to be, if it is a property that does not pay, it will in time become very much less valuable.

Mr. MILLER (Cook). Naturally.

Mr. KERRICK (McLean). And in that event, notwithstanding that when it was prosperous, on the representation of its earnings bonds were sold, they have nothing to depend on eventually but the property itself.

Mr. MILLER (Cook). That is the same with every mortgage, whether it is on a farm or a railroad.

Mr. DAVIS (Cook). In the case of liens created on privately owned property, the people advancing the money take into consideration the value of the property plus the management. In matters of municipal operation we have not as yet reached the stage where people who have money want to part with it on the ability of the municipality to operate the properties; and I am bold enough to state as a Chicagoan, since our city has been mentioned here, that in our own city we have not yet learned to operate properly the elevators that run in the City Hall.

Mr. KERRICK (McLean). These utilities taken as a whole in Chicago, would they be saleable beyond the bonded indebtedness?

Mr. DAVIS (Cook). I really have not any personal knowledge of their value, but the securities now on the market are selling much below par.

Mr. KERRICK (McLean). Which indicates that they are not worth the amount they owe.

Mr. WALL (Pulaski). When the amendment was offered by the delegate from Peoria I was very much in sympathy with it, and I am yet, but from an inspection of section 11 it would appear to me that it is the most artfully drawn of any of the sections in the proposed amendment to this article. The latter part of the section would indicate clearly that there cannot be any loss to the municipality issuing the bonds, although its full faith and credit are pledged, for the reason that the courts can step in and enforce the provisions of the act to the point where the bonds shall be paid, the property shall be kept in good and splendid repair, renewals shall be made as often as necessary, and so forth, and the courts shall have a right to take over the property; and one would think, as the delegate from Peoria thought and probably most of us thought, reading that portion, that was an absolute lead pipe cinch against any loss to the municipality. But an inspection of the first lines of section 11 shows that not only is the municipality pledged, but every time there is a payment to be made upon these bonds, or the interest thereon, taxes shall be levied against the general property of the municipality for the full payment of every dollars of the obligation that

falls due, as it falls due from year to year. In other words, in effect the municipally owned plan, whatever it may be, is simply given as collateral security for the payment of the obligations.

Now, under the very language here, it shows that every dollar of indebtedness incurred shall be paid primarily by taxes extended against the property of a municipality, but that the tax is not to be collected, provided that four months prior to its collection an equivalent sum of money is deposited out of the earnings of the utility. It provides also that if only half the money is deposited, the balance shall be collected as taxes, and if three-quarters of the money due is deposited, within the four months before the collection of the general taxes, then the other fourth is to be collected from the tax and added to that to make the full obligation. Am I right, Delegate Hull?

Mr. HULL (Cook). Yes.

Mr. WALL (Pulaski). But if none is collected from the utility, if it falls down in its operation, and if the courts are not resorted to, then all of the tax that is spread for the purpose of paying the obligation shall be collected, and the obligation paid year by year as it goes along. Now, I take the position that in nine cases out of ten, if we are to limit ourselves to five cent fares, and to cheaper public utility rates down State, whether light, water, or what not, there will be a falling down in the amount of money collected and set aside from the utility, and that tax will be collected and paid just the same as it would be if you were building a courthouse, and collected the taxes therefor upon bonds issued for its payment. I am for the amendment. I believe it is a safeguard. I think it will facilitate the efficient handling of these public utilities by these municipalities, and I believe that the revenues paid in on those bonds ought to be paid exclusively out of their earnings.

Mr. SUTHERLAND (Cook). It seems to me the language to which your attention has just been called is essential to an understanding by the people when they vote upon the question of going into municipal ownership or operation. I do not know any way that a city can go into municipal ownership or operation without involving to some extent the financial responsibility of substantial citizens and taxpayers in the enterprise. Sections 9, 10 and 11 are designed to give them the best safeguards that the ingenuity of the human mind can invent, but they cannot prevent a responsibility for financing those operations. The fact that the tax is to be levied serves notice here, as it would not appear distinctly on the surface of a proposition merely to create a certain municipal body for carrying on certain functions, that the responsibility does exist.

Now, it has been pointed out that the tax is to be extended. But it is not finally entered upon the books until after there is opportunity to pay into the treasury from the fund of the utility the charges required.

Mr. WALL (Pulaski). Suppose the obligations were due in July, and the tax books are made up by the county clerk in September, and turned over to the collector in January. Do you say the tax would not be extended on the books to pay the bonds in July, which is more than four months before the time the books are made up?

Mr. SUTHERLAND (Cook). There might be some difficulty because the date of the retiring of the bonds did not coincide with the fiscal year of the city. That probably would be provided against by legislation. It would not be difficult to provide against that contingency, and it is probably one of the first things that would occur to anybody attempting to draw a law or an ordinance under this provision. But even so, from the first of July on, money would be coming in from this utility. The proper charges would have to be set aside against the next semi-annual payment of interest, and under the circumstances, if there was an overlapping, if the year did not coincide, it would be the duty of the city officials under this, as I see it, to provide that all charges, after operating expense had been carried, should go to pay the interest on the bonds. That would be the first demand upon that income. It seems to me the difficulty suggested is one that is

simple and easy to obviate by initial legislation, so it hardly need operate as an objection to this proposal.

Mr. O'BRIEN (Cook). That does not necessarily imply that the tax has to be extended over a year to meet the deficit. It is the practice in Cook County generally to start the computation of rates and extensions of taxes after the first of December. However, I can see some difficulty there if these bonds were to be semi-annual. We might not be able to anticipate at the time the extension is under way whether the collateral is deposited with the treasurer of the city or not. This difficulty might be obviated by extending that period to seven months instead of four. While the extensions are made December 1 or December 15, the taxes are not in collection really until after January 1 and sometimes February 1. So to make it mandatory upon the taxing authorities to extend the tax may be obviated by extending that period. If the period is extended from four to seven months, there would be no necessity for a tax extension. That would cover July 1, then, if they are semi-annual bonds.

Mr. TRAEGER (Cook). In 1907 a 20 year franchise was granted to the Railway Company of Chicago by a referendum vote. Under that franchise the City of Chicago was to participate in the net earnings to the extent of 5.5 per cent. It was also stated in that franchise that that money was to be used solely for the purchase of street railways, or the building of subways, used for the purpose of operating street railways. I was treasurer of Chicago when we received our first deposit of 5.5 per cent. Some months afterward a warrant was drawn by the City of Chicago against the traction fund, to be transferred to the corporate fund of the City of Chicago. I contended at the time that this fund was created as a sacred fund, and could not be used for corporate fund purposes. After discussion with the Mayor and others, they decided to commence suit against me, mandamasing me to turn over the \$50,000 out of the traction fund to the general corporate fund of Chicago.

Mr. REVELL (Cook). Did you say \$50,000?

Mr. TRAEGER (Cook). I had more than that in my possession, but the warrant was for \$50,000. I think I had approximately \$2,000,000. Well, the court upheld me in every contention, stating that inasmuch as this fund had been created by referendum vote of the people, in that same referendum vote it was created a sacred fund, so to speak, because of the fact that it designated what, and only what, it might be used for. The City of Chicago then appealed the case to the Supreme Court. I came down here with my attorney, and after an argument of two days the city dismissed the case, so we never got a decision from the Supreme Court. Now, while I was treasurer of Chicago there was not one dollar of that fund used for any other purpose. I later became comptroller of the City of Chicago, and that fund was still intact, less the amount that had been paid out to engineers for drawing plans of subways, etc. I cannot give you the exact amount, but it was not a great deal. The fund, in other words, remained a sacred fund. But we from time to time would borrow from the fund in this way: In Chicago, after the budget is completed, approximately the first of February, the council issues an order directing the comptroller and the Mayor to issue anticipation tax warrants for the year 1921, we will say. We purchase those anticipation tax warrants out of our own fund, and we began to do that in 1912. Prior to that time the city deposited all of its funds, of whatever nature, in the banks of Chicago, and in those years they were only receiving about 2 or 2½ per cent. But on money borrowed, we were paying all the way from 4½ to 5½ per cent. In other words, we were borrowing our own money from the banks, and we were getting 2 per cent. and paying them 5 per cent for it. The result was, a law was passed permitting the City of Chicago to borrow from any surplus fund that it might have in its possession. So, as I say, we borrowed from the traction fund from time to time, issuing anticipation tax warrants, which matured the following year, when the taxes were collected—approximately all the way from six to twelve months before; but they were always redeemed, and the money

was put back into the traction fund; and in December, 1914, when I left the comptroller's office, the traction fund of the City of Chicago was still a sacred fund, intact, less the small amounts that had been paid to the engineers. The World War then came on, and Liberty Bonds were being sold, and the City of Chicago saw fit to take out of its traction fund the sum of eight million dollars, which it invested in Liberty bonds. While this may not have been exactly within the law, it was done so openly, and the necessity at the time was so great for the financing of our country, and the supporting of our boys who had gone across, that every man and woman felt that they ought to do their part, and the city in that way did its part. If today those bonds would have to be cashed in, I presume there would be a small loss on them, but if the City of Chicago holds them until maturity, there would be no loss, and there will be an accumulation of interest from time to time, higher than the City of Chicago was getting by depositing that money in the banks. I have no hesitation in saying to you today that I believe that fund is as sacred today as it was in 1914. There are approximately \$28,000,000 in that fund. That fund can be immediately used, in the event we proceed with home rule for Chicago, to acquire municipal ownership of street railways, and only for municipal ownership of street railways can that fund be used. We could not even attempt to purchase a gas plant, or a telephone outfit, and use the money for that, because it is not available for that sort of purpose. Now, I believe that the amendment introduced by delegate Quinn would be unfortunate, in the event that we attempt to have municipal ownership. In other words, you cannot amputate the arms and limbs of a man, and expect him to function properly. We must assume, if we are talking about municipal ownership, that every private business is liable not to pay, and there are a very great many failures. So also must we assume that municipal operation of street railways by the City of Chicago may be a failure. But I do not believe it will, if operated properly. I believe it will be a success, because the community of Chicago is interested in municipal ownership. Every man, woman and child who travels upon the street railways of Chicago will become a stockholder, and be interested in the proposition. Now, we must admit that there may be mismanagement, but I believe the clause placed in there, that the courts may step in from time to time will protect the taxpayers. If you or I were mayor of Chicago, and we played wild tomorrow with the finances of the traction proposition of that city, or the board, that might be created to manage the proposition, I believe there would be citizens in Chicago sufficiently interested in the matter to go to the courts and have that thing remedied instantly.

Mr. REVELL (Cook). How long would that take?

Mr. TRAEGER (Cook). I do not think it would take very long. I believe if sufficient cause could be shown, that an actual emergency existed, to protect the taxpayers of that great municipality, you could get action within thirty days. I have confidence in the courts of our county, and the Supreme court of this State, that they will give us relief, if appealed for in the proper way by the citizenship of the City of Chicago. While I believe we have nothing to fear, it is still well to look at the dark side, as well as the bright side. I do not fear any mismanagement, because what we do here will be ratified by a referendum vote, when the approval of the Constitution is brought about. For then the people will have spoken, the great mass of the people of this State, granting that right; and I do not believe that we have a great deal to fear.

Mr. REVELL (Cook). Do you know of the municipal ownership situation in the cities of San Francisco, Seattle and Detroit?

Mr. TRAEGER (Cook). Probably not as well as I might.

Mr. REVELL (Cook). It is very bad indeed.

Mr. GREEN (Champaign). Is it in order to offer a substitute for this section?

CHAIRMAN WHITMAN. It is.

Mr. HULL (Cook). Is there not an amendment pending?

CHAIRMAN WHITMAN. Is this a substitute for the section and the amendment also?

Mr. GREEN (Champaign). It is.

CHAIRMAN WHITMAN. It is in order.

SUBSTITUTE.

For the purpose of enabling cities or other municipal corporations to acquire, construct, lease, maintain and operate such income producing properties as may by law be defined and designated "public utilities" the General Assembly may by provision for State supervision and regulation uniformly applicable to both municipal and privately owned public utilities of like character, authorized by general law, such municipal corporations to become indebted to an amount not exceeding in the aggregate 15 per centum of the full value of the taxable real property therein, from which authorized aggregate, however, shall be deducted any existing indebtedness of any other municipal corporation in which such taxable real property may be located; but no such additional indebtedness as in this section provided shall be incurred except the proposition therefor shall have been authorized by a majority of the legal voters of such municipal corporation voting upon the question.

Mr. GREEN (Champaign). Now, it is with some hesitation that I have been led to take part in this debate, for reasons with which the delegates to this convention are doubtless familiar. But I feel sure that whatever I say upon this subject of home rule—the definition of which I am not advised—will be accepted with this idea, that this Constitutional Convention should fearlessly, openly and courageously meet the real question involved in so-called home rule legislation? And what is the real question? That real question is whether or not the State of Illinois shall allow any city or any number of cities to secede from the commonwealth upon great economic matters. That is the meat of the whole argument pro and con about so-called home rule. Now, my personal opinion is that the State of Illinois is interested in the success of her municipalities financially. My opinion is that whenever the State of Illinois defines a business to be a public utility, by the very nature of the subject, the very fact that the State has defined it as a public utility, impresses upon the State, in its sovereign capacity, the duty of holding fast to its power of supervision and regulation. And I believe it is well that we stop to see where we are drifting. I have been led to inquire of the gentleman presenting this proposition his understanding of the definition of certain words which have been used. But fearing lest I be misunderstood, I prefer to offer some suggestions about what I think they mean, and what they may mean in this proposal. I want to say at the outset, in the language of a distinguished member of this convention, who is absent this morning, that, after a night of reflection and study, there is put together in this proposal as it is presented a most able, thorough and consistent scheme of municipal ownership of public utilities, and whatever I have to say about it in no sense reflects either against the integrity or the ability of those responsible for its presentation, or the motives actuating them. But in my judgment, it begs the question. It evades the responsibility of this convention determining the policy of this commonwealth with reference to this subject. I have been finally impelled to trespass upon your patience and your time by the last sentence of section 11. As a member of the bar, I appeal to the lawyers in this convention to stop and think what you are doing to the judicial department of the State of Illinois should you adopt that policy. And with due respect to those who framed this proposal, let me say that because of the very nature of the scheme, they were absolutely driven to that extremity. It was not a matter of choice, but as a matter of extremity. Because, without that sentence in this proposal the whole thing is left high and dry, without any possibility of its functioning, or without any of those valuable

securities about which argument has been advanced before this convention. Therefore, explaining the thing which impels me to speak on this subject, there have been a few times in the history of this American republic when the courts were called upon to carry great burdens, and it was with extreme delight that I listened to the gentleman who last spoke, in the compliment he paid to the confidence which the people of the State of Illinois have in the courts. But in my humble judgment, you put into the jurisdiction of the judicial department of the State of Illinois the subject of the regulation of public utilities and you will have overcome their ability to discharge with the same high confidence of the public, the duties they will have to discharge, and meet those supreme tests which they have always met in the history of the State and of the Union. Because it is contrary to republican form of government that the courts should ever be clothed with legislative power, and the fixing of rates for service is uniformly defined by every court in the land as a legislative act, and must of necessity be so. The regulation of the service of public utilities is either legislative or executive, in that it is administrative. Will you just pause for a moment to consider the situation, remembering that the Circuit Court is a court of general unlimited jurisdiction, elected by the people, charged with judicial responsibility, where the court is called upon to meet a situation which is as sure to develop, if this plan is ever tried, as that twice two is four. What would be the result, in the confidence which the courts would have at the conclusion of a regime of discharging that kind of responsibility? Now, in my judgment, the whole meat of this suggested substitute is wrapped up in the words that the General Assembly may do this by providing for State supervision and regulation uniformly applicable to both municipal and privately owned and operated public utilities of like character. I have supreme confidence in the ultimate success of the republican form of government, and I have just as much confidence as the great orator who addressed us, in the people. I do not believe we can frame a scheme by which we can successfully take from the people the right to do things which they want to do, by providing some machinery that will make us guardians of their activities, and deprive them by the unlimited opportunity to do the things they want. But it seems to me it is our duty, meeting in Constitutional Convention, to express a declaration of principles; and we should not avoid that responsibility. If we adopt this proposal, however, we have dodged, and instead of announcing as a declaration of principle that the State is interested in the regulation of public utilities, we have on the contrary admitted that we will forget with respect to that, the sovereignty of the State, and surrender it into the hands of municipalities instead. It seems to me well that we stop and think about what is a public utility. I was led to inquire why they used the words that they did—light, heat, transportation, water power, and other public utilities; and why they did not put the word "food" in there. Nothing is more important to the welfare of the people. Nothing comes more within the police power of the State to regulate and control, than food. Do not think it is idle to suggest that that be within the range of possibility, because out here in Kansas they have in their public utility act defined food as one of the objects of concern to the State, and they said that the operation of the following named and indicated employments affects the public interest, etc. Then they proceed to name them, and the first thing they say is, the manufacture or preparation of food products, whereby in any stage of process, substances are being converted, either partially or wholly, from their natural state to a condition to be used as food for human beings. And the next is clothing—any industry which has to do with changing from a natural state to one for human use, clothing or wearing apparel, is a public utility. A public utility is just exactly what the legislature defines to be a public utility, and the power to regulate, the power of a State to become interested in public utilities, is one of the incidents of police power. May I be permitted to review for a moment the history of the little controversy which started in

this country about the beginning of the nineteenth century, from which all this bugaboo about the danger of traction barons, and one thing or another, has grown up. Over on the St. Lawrence river a man had a ferry, and he charged people to haul them from one side of the river to the other. They went into the courts under the Canadian law—the English law—and said that he was charging too much, and that the State had the right to regulate the cost or price of carrying a man across the St. Lawrence river. They heard the evidence, and the court announced an opinion, in which it said that whether or not he charged too much was to be determined by what it would cost a man to get his own canoe and cross himself. And if, he was not charging any more than it would cost the patron to furnish his own canoe and supply his own ferry, then he was not charging an unlawful rate; and thus, in that case, was the origin of the expression, “all the traffic will bear.” And as society and business became more complex, we come on down through the nineteenth century and begin to see states and governments enter the field of regulation of certain lines of business, predicated on the same doctrine on which that decision was announced, so that when any business becomes clothed with a public interest, then the State has the power to regulate it; and if it be a business which has accepted any special privilege from the State, then, as an incident of government, it must be subject to regulation. Now, then, what is the economic structure of our State and Government? Why should we turn over to municipalities, for their independent action, separately and indiscriminately, and inconsistently each with the other, this great privilege? May I refer to some other things in which the state exercises its sovereign right, that in my judgment do not approach in importance this subject? Why not give every city the power to regulate all of the banks within its confines? Is there any more reason why the city should have power to regulate a street railway than it should to regulate the banks? I can well see, if we are going to enter the realm of home rule, how hundreds of other businesses, in which it is understood that the State exercises its sovereign right under the police power, would become subjects of home rule. We are here laying down a policy for Illinois. Shall we depart from the theory of government to which we have steadfastly adhered ever since Illinois was a State? Every time we have departed from it we have done it with chaotic results. I therefore assert that it is fundamental that if a business is a public utility—and I do not care whether it is a milling company, a grocery store, a livery stable, a hotel, a street railway, an electric light plant, or any of those other things, any of which may be made a public utility by act of legislature—it is fundamentally necessary that if it is a public utility, the State shall reserve to itself its police power, which means what? Simply, after all, the power to be a State; that is all the police power means. Whenever it is necessary to do anything for the public welfare, and there is not any law for it, and there is not a particular remedy provided then under the police power, it is covered by the very power to be a State. The right exists. The legislature may pass appropriate legislation, and even the courts may go out and define the rights of creatures of the State in the exercise of the preservation of those things which are necessary to be a State.

And it has therefore got to be a part of the fundamental policy, the fundamental law of Illinois, that in all those matters which are clothed with public interest, there shall be some sovereign authority. It is just as dangerous for the State to surrender its power of sovereignty over any business that is in fact clothed with public interest, as it would have been, for the President and Congress of the United States in 1860 to have surrendered to the claims of those States which claimed they had a right to take unto themselves powers that up to that time had belonged to the Union, and which were then settled forever to belong to it, because it was a matter of necessity that the Union be preserved, and that the Union not surrender

the things provided in the Constitution should be reposed in the Federal Government.

It is a part of the Constitution of the United States that all powers not taken over by the Federal Government are reserved to the States, and the greatest single power in the whole catalogue is the police power. There is not a lawyer in this convention that will take issue with that statement, because police power, in its all embracing terms, includes the very function of existence as a State, and it is a part, therefore, of the structure of government in this country, that the State must be sovereign.

Now then, if that is fundamentally sound, is that not an argument to support any man's position as to why he is interested in the City of Chicago? I do not agree with my good friends from down State that we do not care if this thing be made applicable to Chicago. One example ought to satisfy us. We want to function as a State. We may want to incur indebtedness as a State. We want every municipality in the State to bear its full share of responsibility and contribute to the indebtedness which we create as a State. We never want it said to the State of Illinois that any municipality has so saddled itself with its own indebtedness that it has a right to be excused from performing its full share of responsibility to the State itself in any of the State's undertakings. But you surrender to the municipality without any power of State regulation the right to itself create its own indebtedness, and create its own conditions and situation, and you must with frankness concede that if the time ever comes when the State wants to do anything which might make it burdensome upon these municipalities to have this right exercised in their own particular communities—you must be fair enough to say it would be entitled to consideration, and it would interfere with the very function of State government to permit municipalities, independent of any control of the State, to do these things.

I really have much to say about this matter, and I must hurry along. I think I know something about it. There are a few subjects about which a man does feel he knows something. I say this section 11 as proposed in this proposal does not guarantee security of obligations. It does not guarantee any of the things which I have pointed out. It uses the word "financing." Does that mean financing the acquisition or financing the operation, or financing the construction, or what?

It is used indiscriminately. I think it was meant to mean financing the acquisition or construction of the utility, but where it is used in this section it may well mean financing the operation of the utility, and it is entirely consistent with this language to believe it was a part of the plan for the city by general taxation to finance the operation of the utilities. In fact it uses it in that connection in a preceding place. How does it propose to do it? It says out of the gross income it shall deposit a sum equivalent in amount to such tax. I believe the delegate from Pulaski dwelt upon that. It does not say net earnings. Here are some facts in regard to that: An ordinary utility that costs one million dollars ought to earn twenty-five per cent annually gross on its cost. That is a pretty fair average, that is about what they do. That is two hundred and fifty thousand dollars. Now out of that gross earning is to be deposited enough to pay the tax, but when that is done there shall be no tax collected. Well, it costs about eighty per cent in these times, of the actual revenue of one of these properties to operate it. That would be two hundred thousand dollars which is going to be paid out, and let us see a minute what the obligations are of the city on a million dollar property. If it sold its securities at five per cent it would have fifty thousand dollars interest to pay, and depreciation—and anybody who knows anything about the subject will agree that is at least four per cent per annum—the delegate from Peoria said from eight to ten, but four per cent is low, that would be forty thousand dollars more. It would have to sell its bonds at a discount, as other utilities do, probably amortized one per cent per annum, that is ten thousand dollars per annum. Now that is a total of one hundred thousand dollars, and if it was operated on an eighty per cent basis, it would take two hundred thousand dollars and

leave fifty thousand dollars net, and if it taxed the individual to pay all of these things out of the gross, it would be fifty thousand dollars short of having enough just to pay its interest, depreciation and amortization of its bond discount.

Well, of course, it could not last very long that way and the tax payer would be losing the thirty-three and a third thousand dollars per year, or possibly thirty-five thousand dollars a year principal, without any hope of getting it back, which would be donated to the enterprise because it would take all of the income from the property to operate it, if this were deposited out of the gross earnings, but I presume they meant the net earnings, as I presume they take out the operating expenses first.

Let us see what the history of some of these things are. I went down this morning and I have before me the information about how these things are running nowadays. Let us deal with practical things, gentlemen. The electric properties in this State in 1917 operated between a sixty-eight and sixty-nine ratio, and in 1918 a seventy per cent ratio. That is it took seventy per cent of all they took in to pay their operating expenses. The gas properties operated on a eighty-five per cent basis in 1919, and a ninety per cent in 1918. They had ten or fifteen per cent of their gross left to pay their overhead, their bond interest, etc. The street railway property, the ratio was seventy-eight to seventy-nine in 1919 and it was down to seventy-four or seventy-five in 1918. The interurban railroads in this State were operated on about a seventy per cent ratio in 1918 and seventy-four per cent ratio in 1919. That is the interurban and street railways combined. The interurbans alone operated on a seventy-seven to eighty per cent ratio in those two years, and the telephone, that is one business I have never had any practical experience with, but the figures show the operating ratio was eighty-six per cent in 1918 and eighty-five per cent in 1919.

Now deposit out of the gross earnings enough so you won't have any tax left to collect, and there is nothing left as I can see except to provide some method entirely aside from this proposal by which the operating expenses are paid. If you see this as an error and think it should be out of the net earnings, then you fall short to the extent the tax payer is putting up on a million dollar property to pay interest and deficit, all of the way from seventy-five to one hundred thousand dollars on every million dollars invested in the property. Does this meet your idea of home rule? I believe it is all right if people want to own and operate their public utilities, it is all right if they had some way of doing it, but it seems to me as though our duty requires that they ought to be required to conform to the same kind of law that the privately owned public utilities comply with; the thing to do in this great democracy is to give the people the chance to know the facts and the reason we are here trying to compromise with a thing that we know is wrong is because we know the legislature has not in this State seen fit to compel its municipal utilities to disclose the facts concerning their operations, but they have the privately owned utilities; therefore it is possible for them to go out and deceive the people into the notion that they are making money on these utilities when in fact everybody that knows about them knows they are running them at the expense of the tax payer.

Therefore as a matter of principle if we just write in this Constitution that whenever a municipality goes into this business it shall be subject to the same kind of regulation and supervision that private capital has to meet when it invests in the business, in my humble judgment you will have solved the whole question, because if the facts as to the operation of publicly owned utilities, municipally owned utilities, ever had been disclosed to this great American people, they would have gone out of the business just as fast as they could get out. There would not be any danger of a demagogue fooling the people very long, if he knew he had to make reports and conform to the same classification of accounts, and to be subject to the same kind of supervision that his competitor, who had his own private dollars in the same kind of business had to meet. Therefore, it has always seemed to me that the whole subject of home rule should

be represented by the declaration "let the city own their utilities, but the State will reserve and preserve its sovereign right to compel those municipalities when they do that thing to make honest reports and subject themselves to the same kind of supervision that the State imposes on private plants. When you have done that, there will be a few who will go into the business but they will reap the experience that private enterprises have reaped in those things, and it would not hurt the State very bad, and we would at least travel a consistent road of preserving the sovereign power of the State in its great paramount right of the exercise of police power. I believe if that is written into the Constitution we can go out to the voter and say "why sure you have a right to own your utilities," but they say "we don't have the absolute right and power of supervision." Now we say "we won't let you secede from the State, don't you want if your city goes into the business, don't you want the State to be authorized to at least give it as much supervision in commanding how it is to run its business as it gives the banks in your city?" I say the integrity of the electorate in this State will rally to the question of the preservation of the fundamental law in my humble judgment.

There will be just as much strife, just as much dissatisfaction, if we passed this proposal in the form submitted as if we did not pass anything at all, because in the wisdom of the committee and its chairman, we will have presented a scheme which may meet none of the conditions and by the very nature of it would not work, and so they will commence to find objections to it—understand me, I don't mean that as a reflection, that the scheme itself does not present a sound basis—but some people don't want a sound basis, and they would therefore object to what may be trifling provisions of this article and make just as much strife as if we passed nothing at all, or passed something denying home rule.

Mr. HULL (Cook). Just a minute and I will yield to the gentleman of Cook, Mr. Miller. I have no objection personally to any municipally owned and operated utility being subject to the same supervision with respect to accounting and other things that privately owned and operated utilities are subject, by law, passed by the legislature, but I have an objection to writing an article in the Constitution now that the legislature shall never repeal or alter the Public Utilities Act.

The gentleman here is coupling it, coupling up with the municipal ownership and operation the preservation of the Public Utilities Commission. I voted for the Public Utilities Commission as a member of the legislature; personally I am inclined to believe in the wisdom of the Public Utilities Commission, but I am just as much opposed to writing in the perpetuity of the Public Utilities Commission in this Constitution as I would be to writing in the Constitution that there would be no Public Utilities Commission.

Mr. GREEN (Champaign). May I correct you a minute, to say that there is nothing in this proposal which would require the perpetuating of the Public Utilities Commission, because if it surrenders its supervision over private utilities, it could not have any supervision over public utilities, but if it had supervision over the one it should have over the other kind.

Mr. HULL (Cook). Provided they are all of like character authorized by general law, as the municipal corporations become needed, etc. In other words, a man who is interested in municipal ownership and operation is by necessity bound to stand for a State supervision and regulation such as provided in a public utilities act, the two are hooked up.

Mr. GREEN (Champaign). May I correct you further. It might be that the legislature might so desire to amend the Public Utilities Act and to only question the service, and it may be when we speak of it providing regulations, it might be it would not want to exercise that right, and all it would do would be to preserve to the State the power to do it whenever they saw fit.

Mr. HULL (Cook). If the gentleman from Champaign wants to offer an amendment to my proposal, not to his proposal, that such public utilities

municipally owned and operated should be subject to the same sort of supervision with respect to accounting as would be required of a privately owned and operated public utility, I think it would be an admirable thing. I think they ought to be compelled to account and make their accounts and keep their books in the same method as the utilities privately owned, so that comparisons can be made, but in this amendment the two are tied together. There must be State supervision by utilities, in order to have public ownership and operation and I am opposed to tying the commission to this provision.

Mr. GREEN (Champaign). How would you feel if that were amended to read, "by reserving to the State the right to provide for State supervision," which is simply a provision preserving the right of the State when it saw fit to exercise it.

Mr. HULL (Cook). This is offered as a complete substitute for section 11, and it disposes of the provisions of section 11 which are intended to be clear provisions for the protection of the citizens of the municipality, and chucks that whole thing into the legislature. Now I don't think we want to chuck it into the legislature. If it is necessary to have a provision such as suggested by the gentleman from Champaign, and so far as accounting methods are concerned, they shall be subject to the same method of accounting prescribed by the general law, I see no objection, they ought to make their accounting the same, but on this proposition I am opposed to it.

Mr. MILLER (Cook). Just a few words on this matter about the proposed substitute. I have been very much entertained and instructed, as no doubt you all have, by the eloquent address by the gentleman from Champaign, with his historical and philosophical references, but if that eloquence and those historical references and those philosophical allusions lead to the opening wide of the door to the acquiring by municipalities of public utilities, I think they are misleading, and that is exactly what this does, this substitute as I read it, and there is no saving grace in it except the supervision by the State, and what is security if we have some supervision by the State? Will it take out the damage that will be done by opening wide the door for popular clamor to take up public utilities and for public utilities to take advantage of the popular clamor to get rid of their public utilities? Now President Wilson has said, and his former Secretary of State has endorsed it, that any Nation was fitted for self-government, any people ought to have the right to have self-government, and go to the dogs if they were inclined to do so, any people, Mexico or any one else, had the right, the God-given right to get as low in sloth, ignorance and disease as they saw fit to. I don't want that principle applied to the municipalities of Illinois.

It is a condition that we are confronting, not a theory. I did not go as far as I should have in reading this dispatch this morning from an adjoining State, but I see the gentleman from Champaign has read it—the Honorable Governor-elect has said "Certainly I shall fight any attempt of the public utility interest to organize the General Assembly"—well, somewhere here he says he wants to get rid of the Public Utilities Commission; he wants that thing abolished and that will be one of the first enterprises probably taken up by the new administration.

Now, here is the situation, we have got a condition now where we are threatened with the things mentioned this morning and yesterday afternoon. There is no necessity of reading them; the effect of this provision offered by Delegate Hull, with the amendment of Delegate Hamill, that he has promised to offer to it, limiting the right in a municipality that goes into the public utility business, to this method of financing, the effect will be that the door is left wide open for the legislature to let any municipality go into the public utility business without any restriction whatever. The effect of it will be that if they do go into that business they will be compelled to go into it on some sane principle like that laid down in this proposal. If the amendment or substitute offered by the delegate from Champaign should be adopted, then the legislature would be left free to authorize any munic-

ipality in this State, by creating traction districts to issue sufficient bonds to acquire the public utilities with or without a referendum to the people living in the traction district.

Mr. GREEN (Champaign). No, that is preserved in the amendment.

Mr. MILLER (Cook). Yes, that is right, that is preserved, that referendum; but as I say, it would be left wide open for the legislature to authorize Chicago or any other locality in the State to create a traction district, and as a result of which they would have sufficient bonding power to acquire the utilities, and those utilities would have no other control except a possible control by the State Public Utilities Commission, and what security have we that such Public Utilities Commission would be authorized to or would give Chicago or any other community any proper safeguard for the proper business running and administration of that utility. I can see absolutely none.

On the other hand this plan provides for a restriction which would prevent, in my judgment, any very serious damage being done by the acquiring of the Public Utilities by a city. Now as Delegate Hull has said, there is no reason in the world why a provision might not be put into this very proposed plan if the delegate from Champaign will move it, or if he deems it desirable, that a public utility of that kind, that a local public utility of that kind acquired by the municipality shall be subject to the control of the Public Utilities Commission, who shall be under the same duty that is given here to the court—in other words, the thing I want to avoid is the throwing open of the doors for the people to go in without restriction in the public utility business and likewise the throwing open of the doors for the public utilities to get rid of their properties at a time when the people are discontented and clamoring for some sort of a change, and it seems to me, gentlemen, that this proposed substitute throws that door wide open, and for that reason I am against it.

Mr. KERRICK (McLean). Under the provisions of this proposition under discussion, and it pertains to this motion, the courts may be appealed to in case it is learned in practice the rate charged by a public utility is not sufficient to cover the entire cost, including maintenance, etc., the courts are permitted upon investigation of the whole subject matter to increase the rates of revenue under the provisions of this article?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). Under the provisions of our present utility act it is provided that an instrumentality toward a commission upon application of an owner of public utilities, who claims that the income derived from a certain rate or charge is insufficient to compensate him for the services rendered, the duty then before the commission is to determine whether or not his rate should be increased. The commission in one case has control over the rates to the extent of increasing the rates, commensurate with the cost of the service. What is the difference in principle between the body toward a public utility commission and the court, which function in the same way?

Mr. MILLER (Cook). I am not sure that there is any.

Mr. KERRICK (McLean). So that the distinction or the difference between the Public Utility Commission and a court commission is only in name, isn't it?

Mr. MILLER (Cook). There is nothing like a public utility commission embodied in our Constitution. The purpose of this is to give a permanent control.

Mr. KERRICK (McLean). I understand, but my question is more concrete; is there any principle, any difference between a body under one name being empowered to regulate rates for the purpose of saving the utility from going out of business, is there any difference in principle, whether it is called a court, or judge or commission?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). What is it?

Mr. MILLER (Cook). If the Public Utilities Commission fixes a rate that is always reviewable by a court.

Mr. KERRICK (McLean). Wouldn't a court's decision be reviewed, too?

Mr. MILLER (Cook). By appeal, yes.

Mr. KERRICK (McLean). One is a review and so is the other, so I have—

Mr. MILLER (Cook). No, not the same sort of review by the court.

Mr. KERRICK (McLean). All of the members of this commission should have occasion to examine the public utilities' act; I am not speaking of the commission or the powers given it, but that act passed, that act itself provides specifically, doesn't it, that one of the conditions upon which a village or a city or any municipality coming within the purview of the act, and one of the conditions under which they shall establish a public utility is this, that it must charge such rates as will pay all expenses and maintenance and all costs, necessary to keep that utility alive and in action?

Mr. MILLER (Cook). You mean under this provision?

Mr. KERRICK (McLean). Under this?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). And it is done for the purpose of eliminating the possibility of any such public utility being loaded on to the taxpayers of the State of Illinois?

Mr. MILLER (Cook). When you say possibility I would not go that far.

Mr. KERRICK (McLean). Isn't the language plain, the language of the act; for instance, take in the village of three hundred people, if nothing happens to it, it may be incorporated and it may erect an electric light plant, may it not?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). But it can only do it under the condition that it shall forever charge a rate sufficiently high to pay all of its expenses and keep it alive?

Mr. MILLER (Cook). Yes.

Mr. KERRICK (McLean). Is that right or wrong in principle?

Mr. MILLER (Cook). I think it is right.

Mr. KERRICK (McLean). Why shouldn't it apply to Chicago?

Mr. MILLER (Cook). Well, doesn't it?

Mr. KERRICK (McLean). No, because you have in the background of all of it, and it is admitted so, that in case the rates seem to be too strong to satisfy the people, the rate necessary to make this institution or utility self-supporting, you will throw on the taxpayer.

Mr. MILLER (Cook). I don't say it.

Mr. KERRICK (McLean). I understand it so; it has been the thing urged and the reason stated made in support of that proposition, you could not sell the bonds unless they saw so.

Mr. MILLER (Cook). No, I think you are mistaken.

Mr. KERRICK (McLean). If I misunderstand the thing, that is different; then supposing that it is the understanding of the mover of this proposition that there shall be a resort if necessary to general taxation in order to support the public utility in Chicago.

Mr. MILLER (Cook). Yes, but the necessity must always exist, the possibility of it.

Mr. KERRICK (McLean). That is a question as to whether the necessity exists, of course; that is a question which you leave to courts to decide; on the other hand, the taxes of this State leaves it to a commission to decide, and the commission has no authority under its interpretation of the law to raise the rate charged for carrying passengers on street cars or for furnishing light or heat through electricity or any medium, and it has no authority under any interpretation possible to put on the law to allow a

public utility to raise its rates unless it is an absolute necessity, isn't that so?

Mr. MILLER (Cook). I suppose so.

Mr. KERRICK (McLean). And the necessity in one case means necessity in another case?

Mr. MILLER (Cook). I don't understand what you mean. The purpose of this provision is to make the public utility absolutely self-supporting. Now we have got to be perfectly frank, we know that there is always a possibility that because of bad management it is impossible to put rates so high as to take care of all of the expenses and interest charges, and we have got that to recognize, that there may be bad management; I don't think it is a probability, but it is a possibility, and if it goes to a sufficient extent you cannot raise rates enough to meet it, because if you raise the rates high enough you will make no gain in your net returns.

Mr. KERRICK (McLean). I understand that part; what will that do to the part of the utilities act which you say is sound in principle, if they cannot, under any contingency, the owner of a public utility cannot under any contingency, keep this thing going at the rate which he is permitted to charge—therefore, the taxpayers of this village must help out, but that is not allowed under the Public Utilities Act as is allowed under this Act. You are allowed under a certain contingency, the contingency of not enough returns, which is the same in one case as another, to resort to taxation of the people.

Mr. MILLER (Cook). The only way I can answer that is, neither the Public Utility Act nor the court can perform the impossible.

Mr. KERRICK (McLean). That is true, but the people who make the law of this State for all the people of this State, they hold it is not possible, you can just simply go out of business.

Mr. MILLER (Cook). The alternative in this State would be the city has issued the bonds and if it is not possible to make the utility self-supporting it must be true and it must follow that the city would have to help out to that extent.

Mr. KERRICK (McLean). The Public Utilities Act goes further, provides any certificate of indebtedness or any bonds issued by a public utility must be provided for in advance, that is to say the rates or charges must be such that a fund will be provided to pay every dollar, and cent, contracted for by that utility. It does not contemplate in any event the failure of the utility and the resorting to taxation of the people. It is a departure, an entirely new departure from any of the principles that have ever been sanctioned by the people of the State or public opinion so far as I am able to judge public opinion.

Mr. MILLER (Cook). What would happen if the public utilities could not make it safe, could not raise the rate enough?

Mr. KERRICK (McLean). Just exactly what would happen if you could not get it to pay under your scheme. A man—a commission, or a body of men who are called commissioners, who perhaps have as much business, perhaps more as judges, say you have got to make it pay, the people have authority to not pay, and we will make the fare seven cents, that is all instead of five. You have the same power invested in the judges, and the judges would say, "You can get it done if you charge more," and you would reply, "The people won't ride, so then we must tax them." That is your proposition. In any event your proposition differs from what has been enacted into law by the people of this State with reference to charges of public utilities. In one case you say the charges must pay the cost, and in the other case you say, if you cannot raise the rate beyond what we think is proper you turn around and have the taxpayer pay the cost.

Mr. MILLER (Cook). The answer to that is simply this, this line says the courts shall make it self-sustaining by making the rate sufficient so it will be just the same as in the Public Utility Act, one is the same as the other. Neither one can perform the impossible, that is all I can say.

There is just one thing more I want to say in response to the criticism made by the delegate from Champaign as to the provision in this Act that out of the gross receipts there shall be deposited enough money to meet and pay the principal on the bonds; of course their principle is that the gross receipts are enough to pay the principal, as it accrues, and the interest on the bonds, upon the plant, naturally, and the reason it is taken out of the gross instead of the net is so that there will be as little temptation as possible to the managers of the utility and to the municipality to keep the rates above what they ought to be. This is a necessary part of producing enough revenue from the operation of the property to meet operating expenses and fixed charges, if nothing else. Of course, if the utility is not charging enough of a rate to make operating expenses and fixed charges, why there would not be enough deposited, but that presupposes a breakdown of the scheme at the very start, and the fact that some of the utilities are costing sixty or seventy or eighty per cent of the gross receipts for operating expenses has nothing to do with the question, this presupposes it has enough left to pay fixed charges.

Mr. SUTHERLAND (Cook). I move the debate be now closed.
(Motion lost.)

Mr. CORCORAN (Cook). I move the committee do now adjourn until two o'clock.
(Recess until two o'clock.)

2:00 O'CLOCK P. M.

Convention met pursuant to recess.

CHAIRMAN WHITMAN. The committee will please come to order. The pending question is on the substitute offered by Delegate Green for section 11 and all amendments thereto. Is there further discussion on the substitute offered by Delegate Green?

Mr. MACK (Hancock). Mr. Chairman, there was simply one suggestion that I wanted to make, and I believe one only. I did not want to cover any proposition that has been already covered, because this has been much debated, not this portion of the matter, but the general proposition.

The thing that seemed to my mind, Mr. Chairman, to be quite a ruling circumstance was this, that under the suggestion of the amendment of the gentleman from Champaign County, that if we are to have a public utility in the hands of a municipal corporation that it is guided and controlled by a power from above, and that in so far as there might be any iniquity surrounding the control of that corporation or that utility by a municipal corporation that that would be removed, to some extent, by placing the control higher up. In other words, it is in the hands of the General Assembly of the State, and anything surrounding the operation of these utilities would be guided and controlled by some commission, some power designated by the legislature, and the whole scheme would be entirely in the hands of the legislature.

To me, if it must be that we are compelled to go into the matter of public ownership by reason of the clamor for the same, which I am not willing to concede, but if it has to be done, Mr. Chairman, it seems to me that there cannot be a more salutary, efficient, method than to place this in the hands of the legislature so that every proposition may be controlled.

I take it if we have it conceded by the gentleman from Cook who introduced this proposition, that it is not at all sure that the people will not be compelled to make up the deficit if the running expenses exceed the income. That being so, Mr. Chairman, and as I understand conceded now, and an effort to control that by an amendment introduced by the gentleman from Peoria having been refused, it having been insisted that that was improper, I insist, sir, that it is now a double necessity to place this in some higher, sound, controlling power.

One of the prevailing arguments against this proposition that we have heard here has been the political influence, the political power, and since I

left here for lunch I have had called to my attention the fact, by someone who mentioned it, that in the control of one of these utilities in a foreign country, that the officer who had charge of the same was entirely above any political influence and could appoint and remove, could place and withdraw at his own good will.

Now, if there is anything in the world that will remove the sting from this proposition, that will take out the venom and the poison of public control by a municipal corporation, it will be that the higher governing power of the State of Illinois has that within its charge, and while I am personally against the proposition as an abstract statement, as a method of government and running public utilities, yet I want to repeat and voice the sentiment that I have often expressed upon this floor, that if these gentlemen, especially those coming from Cook, feel that this must go through, I am satisfied to place the management of it in the hands of the General Assembly of the State of Illinois, and I believe, gentlemen, that a large part of the difficulty which exists could be removed by that control.

But one more thing, gentlemen, and that is this: It has been insisted that the proposition suggested by our friend from Champaign County is but an effort not only to place this in the hands of the Public Utilities Commission, but to get into the Constitution itself a perpetuation, a lease of life for time and for eternity of that body which is unpopular with some. Now, if I may not be deemed improper, may I ask of the gentleman from Champaign one question? It is this: Am I right in saying to this committee that your proposition does not embody the necessity of this remaining in the Utilities Commission as it is now; that you have only provided for public control of this in some manner which is satisfactory to the legislature?

Mr. GREEN (Champaign). You have stated it well.

Mr. MACK (Hancock). That is right, is it?

Mr. GREEN (Champaign). There is no doubt about it.

Mr. MACK (Hancock). Yes. Then, gentlemen, I think that in passing upon this matter it is not wise, it is not just, it is not fair to unload upon the proposition suggested by the gentleman from Champaign County any of the iniquities, if there are any iniquities—and I am not passing upon it—of the State Public Utilities Commission. I think it is unfair and unreasonable, and I want to say, moreover, that this whole matter will go back to the legislature of the State of Illinois and into their hands, and onto the Governor-elect; I am glad to have that go. But there is one thing, gentlemen, that I desire to say, that I believe this body of men will not stand for, and that is as to any suggestion, what may be said by anybody, from any source high or low, Governor-elect or otherwise, as to the course that ought to be pursued by this body of men here.

Gentlemen, we come from the people, and in the name of God we are going back to the people, and there does not exist any power, except the power of the people of the State of Illinois and God Almighty, to control us, and in the name of God I expect to go back to my people in that shape, and while I am satisfied the gentleman called our attention to that without intending to give any offense, yet I want to say that we stand here without the power of anybody to dictate to us or suggest to us what we are going to do, and we don't care a rap, gentlemen, what anybody thinks as the Governor of the State of Illinois or what the legislature will see fit to do with. Why, that is none of our business, and does not enter into it at all.

And I want to say, moreover, gentlemen, in justice to the Governor, both elect and acting, I do not believe that they are trying to take any hand in this thing whatever. I think their judgment and taste is such that they realize that we stand here to represent the people. Now, that being so, gentlemen, I only beg of you as my colleagues in passing upon this matter that you do not allow anybody that is charging the State Public Utilities Commission with any crimes to throw dust into your eyes and to inject into that an issue what is not there.

Therefore, finally I want to suggest to you, gentlemen, this: First, that if we are to have control of these utilities by municipal corporations,

there cannot be anything better than to submit that to the legislature. Gentlemen, as I have said, have conceded that this plan may run short, and if it does, that the people will pay the bill. Then, as it has been suggested on this floor, gentlemen, we come back to this plain, simple, unvarnished proposition, presented to us forcibly and ably by the gentleman from Peoria, and that is the proposition as to whether the mass of people of the State of Illinois or the municipality shall pay the bills as to a shortage that exists, and whether if a municipality cannot operate this so as to pay the running expenses, and it falls short, it shall continue to go on, and the one, two, three, four or five hundred thousand shall be paid by the people of that municipality.

As the gentleman from Champaign has well said, in the hands of the legislature, this is controlled. They can take care of this matter. It is a force and a power removed from local influence and local political denomination, and there, gentlemen, I believe it is safe.

With this I desire to leave the matter in your hands, saying, first, that if that matter were up, and it is not now, I am opposed to cities entering into the administration of public utilities, but that question is not up now. I believe in the power and the might and the majesty of human endeavor, which has made this great country and made this great State, but we are confronted with this situation, and these gentlemen who are worthy of credit and to whom we should listen come here and say there must be some relief. If that relief is to be granted, gentlemen, let us turn then to the State legislature, to the General Assembly of the State of Illinois, and we may then rest reasonably assured that that body coming from the people and going back to the people would not long tolerate a condition by which all the people paid the bills by public taxation and paid a continual shortage to meet the expenses of a public utility, and by which a continual shortage to meet the expenses of a public utility could be raised by public taxation and thereby the people should have taken a long step in the direction of Socialism, which I know we all condemn. (Applause.)

Mr. HAMILL (Cook). Mr. Chairman, I desire to be heard very briefly upon this question. Gentlemen, with much that was said by the delegate from Champaign I am in sympathy. I believe that as a general rule business can be better conducted by private enterprise than by a state or any political subdivision of the State. I think experience has shown that a higher degree of economy and a better degree of efficiency are demonstrated where there is the hope of profit to the individuals than where the only motive is a desire to serve the public, which only too often fails.

I recognize, however, that there is a very large part of the community that has another point of view, which regards public utilities as an instrument of exploitation of the public in private interest, and those who think thus, are determined that the public through some political instrumentality shall take control of at least some of the public utilities. Whether those are in majority or not at a given time only a vote can tell. The recent vote would indicate that at least in parts of our State they are now in the majority.

I think, therefore, that some plan by which their wishes can be carried out with the least danger to the State or the community where the experiment is made is desirable, and I think that on the whole the plan suggested by the delegate from Cook is such a plan.

It seems to me that a large part of the argument made by the delegate from Champaign is predicted upon a misconception of the article as it now stands. On the motion of the delegate from Cook, Mr. Miller, an amendment was made by which the first section, section 9, does not confer upon the city power directly, but merely enables the General Assembly to confer such power. Of course, if it can confer the power, it can withdraw the power. Any enactment by the General Assembly providing that cities may proceed as outlined here, may, if the experiment made thereunder proved a failure, be repealed and stop further experiments. So that when we

listen to the delegate from Champaign insisting eloquently and in the whole soundly upon the necessity of maintaining the sovereignty of the State and forbidding secession by municipalities, we were listening to caution against something that cannot, in my judgment, occur under this article as it now stands.

It is not easy to draw the line sharply between those functions which the State for convenience permits to be discharged by the municipality, and those functions which the State itself should perform. We now grant very large powers to municipalities, and on the whole it has proven wise. Cities now operate some public utilities. This is merely a device by which other public utilities may be conveniently financed and financed with the least danger of disaster. I find myself unable to follow the gentleman from Champaign in drawing a doctrinal line and saying if we take something from one side of that line and put it over on the other, we are granting away the sovereignty of the State. My mind refuses to work in just that way. Where the line of sovereignty runs, I cannot tell. I think, therefore, that much that has been said in favor of the proposed substitute is not sound.

Again, another question: I am not very sure about this, but the proposal, as I understand it, would have this effect: It would put one group of men, chosen through political channels, to supervise the activities of another group of men chosen through political channels. Now, the argument against municipal ownership is that those who are chosen through political channels are apt not to be so effective as those chosen through the laws of trade—and I think that is a good objection; but I question very much whether you are going to better municipal ownership and take anything away from the vice that we think inheres in it by putting over those who manage the property another group chosen in the same way, though, perhaps, from a larger electorate. On the whole, I am disposed to think that while there is much merit in the proposed substitute, it would not accomplish what is desired, and is not a desirable substitute for the last section of this article.

Mr. RINAKER (Champaign). Mr. Chairman, the more I hear this subject discussed, including this particular substitute as offered, the more I feel we are making a mistake in adopting the plan of attempting to cover this great subject by legislation in the Constitution. The particular substitute that is offered, in my opinion narrows the issue only in one way, and injects into it, perhaps not intentionally, a purely political issue so far as the adoption of the Constitution shall be concerned. I do not believe that any plan of the regulation of public utilities, whether it shall be the same as that applying to private utilities or not, is going to avoid the evils that for one I believe exists in public ownership. I think that is only going part way, and it seems to me that what we should do at this time is not to adopt this substitute, but to adopt a substitute that shall prevent the things that it seems to me are essentially wrong in the ownership of any public utility.

It is inherently wrong, it seems to me, that the money of one man shall be taken by taxation to pay the street car fare of another man. Particularly, I think it is inherently wrong that taking the relation as shown by some of the statements made on the floor here today, that four men in Chicago shall have their railroad fare paid by one man in Chicago. I mean by that that you have, as you say, in Chicago out of five citizens one taxpayer. It seems to me that it is inherently wrong to allow the number of people in Chicago by mere number to determine the matter of railroad fares in Chicago. I instance that only because it is an instance of public ownership.

Now, the thing that is wrong is the pledging the use of the property of the taxpayers for the operation of any public utility. I do not believe in any municipal corporation, personally, going into business in competition with private ownership. I do not believe it can be done successfully, and yet I am not prepared to say as a member of this convention that the experiment shall not be tried within the next 50 years, or the life of this

Constitution, but I do feel that it is my duty as one member of this convention to so vote as to put restrictions upon the use of that power, so far as can be done, to prevent the evils that I see arising, and it seems to me that the way to do that is to compel these utilities, if taken over, to pay their own way, as the gentleman from Peoria suggested by a very proper amendment that he offered, and for which this pending substitute is offered in part.

Mr. HULL (Cook). No.

Mr. RINAKER (Macoupin). His amendment offered an additional section to your proposal, whereby these utilities are required to pay their own way, and substantially preventing the use of public moneys for that purpose, and the motion now is to substitute for these sections of your proposal on that amendment the proposal offered by the gentleman from Champaign.

It seems to me, then that if this pending substitute shall be defeated, and then a substitute embodying the substance of what has been offered by the gentleman from Peoria is offered as a substitute not only for this section, but for the three sections offered by the gentleman from Chicago, whereby you prohibit the use of any moneys raised by taxation in paying for or in operating them, making up a deficiency for any public utilities, you preserve the rights of the taxpayer, you give a fair opportunity to try out these experiments, and I see no objection in doing that.

If the city is to go into one business enterprise, it should use any other business enterprise they may have in financing the new enterprise. For instance, the City of Chicago owns its waterworks. That is a business enterprise. I do not see any reason why the waterworks of Chicago should not be used as a basis of credit in the issuance of bonds for the purchase of your street railways if you want to do it, or any other public utility that you own. It seems to me that it is a sound principle that if a municipality is to go into a business enterprise, it has the same right to use its business assets and capital as a basis of credit that any individual has. I believe, that it should be put upon the same basis, and I believe, too, that wherever a city goes into a business enterprise, the assets that it invests in that should be treated exactly as the assets of a private institution in that they should be subject to taxation in the same way.

For these reasons I am opposed to the substitute as offered by the gentleman from Champaign, and hope that a later substitute can be drawn up capable of protecting the taxpayer and avoiding the real evil in the matter, along the lines that I have suggested.

Mr. GREEN (Champaign). Mr. Chairman, if there is no further debate, I want to say just a word: Undoubtedly, the subject matter of this substitute has suggested some food for reflection, at any rate, and if it has accomplished that purpose, it probably is not wasted. I seem to have been successful in raising the question in the minds of some of the gentlemen in this convention, who are a good deal smarter than I am, what I consider the great paramount issue that we are facing.

I said, and I repeat, that to my mind the issue here is the issue of whether or not we are going on record for home rule in its common acceptation, or whether we are willing to adopt a principle that denies all power to political subdivisions of the State to exercise the functions of sovereignty. It is said that we are not surrendering any of the sovereign powers of the State if we adopt the proposal that is before the convention.

Now, let us see: We are turning over absolutely to the municipality that sees fit to invoke the aid of that proposal the supreme power of control of the utility which it owns and operates, and the vice of that result is disclosed in the fact that in order to make it function, they had to repose the administrative power, the legislative power, in a forum to which it does not belong, to-wit, the courts.

Practically speaking, as members of a Constitutional Convention, the adoption of that proposal, it seems to me, does violence to our common agreed understanding of the necessity of protecting the judicial ermine against any possibility of it being dragged into the mire of politics for ad-

ministrative purposes. And yet that is what we force, and it has to be thus, in order to make this proposition function.

Now, the argument has been advanced in effect and in substance that it is to perpetuate the Public Utilities Commission. Of course, that is not true. It does require that if the General Assembly ever passes a law providing for municipal ownership, it must at the same time provide some method of State supervision, whether it be the present method or some other. I do not believe we would find a legislature that would sit and ever seriously consider the principle of throwing the responsibility over to the courts. I believe we would not be doing justice to their wisdom to believe that they would ever create that administrative tribunal out of the judicial department. Yet we are being confronted with that suggestion here, and the security of property rights depends upon keeping the courts aloof from that kind of thing.

This is not revolutionary, this is not susceptible of the things that will be said about it. After all, this is a government of the people. As one delegate so well stated, our government, and the success of our institutions can never rise higher, nor be better than, its source. We must depend upon the integrity and judgment of the people in the years to come. We have no right to assume all wisdom for the legislative control and to prescribe the legislative scheme under which public utilities may be owned by municipalities. We have no right to take away from the next generation of the people of Illinois the right to set up their own scheme. We have no right to prescribe limits so narrow that the General Assembly and the next generation of people will be powerless to do this thing in any other way except by Constitutional amendment. It is not fair to them. It does not do justice to our high conception of the safety of American institutions. We must trust the people, but we must put some kind of safeguard in the Constitution under which they shall exercise their particular volition at a given period.

I have said in previously discussing this matter, and it seems to have been forgotten—I think that cities ought to have the right to own their public utilities whenever they are willing and able to, but let the citizen know how they are running them so that they cannot run them in the dark, and the government will be just as good as the people want. And if in this Constitution it were simply required that the light of day shall be shed upon their innermost transactions, that they shall be required to disclose to the people they serve how they are running these properties, why, we can trust the people not to make bad mistakes in the methods which they adopt for owning their public utilities.

Gentlemen of the convention, this convention is getting a little bit away, it seems to me, from a thing we must all remember—I am getting away from it myself sometimes—and that is that the best way to produce trouble is to deprive the citizen of something that he feels he has a right to have. I kind of have an abiding conviction that if some of these people who were talking the loudest upon a particular scheme of municipal ownership had the bridle taken off and turned loose, that there would not be so much danger of their going into it, as there is when they can keep arguing with the people and convincing them that they are being deprived of some rights. But put the responsibility there, that the people may know that there will be no opportunity to mislead them about the way this thing is functioning. I just have that supreme confidence in the ability of the American people to govern themselves, including the City of Chicago and the city where I live and the State of Illinois generally, that if we deprive these leaders who would mislead the people about the facts with reference to the thing, if we deprive them of the opportunity to deceive them, and they have got to go into it knowing that the people are to watch their every step, and that they will have to make that kind of reports to a sovereign power, as Delegate Mack has so well said, that there is a sovereign power that will require them to account to the State under the police power, I feel like the thing is safe, and that it is more a bluster than a real danger. But

I do feel that it would be very unfortunate to tie up the succeeding generations to a particular scheme and give opportunity for the demagogue to tell the people that this Constitutional Convention had tied up his rights.

Mr. DAVIS (Cook). Mr. Chairman, following the introduction of the substitute by the gentleman from Champaign, a debate took place in which all the questions, except one raised by that substitute, had been discussed. That one question which the gentleman from Champaign is again emphasizing at this time is the one referring to the aid of courts in the administration of municipally owned utilities.

May I suggest at this time by way of an answer to the suggestion made by him that in drafting a piece of machinery for public utilities in connection with the ownership and operation of utilities by municipalities, the thought of necessity suggested itself that in connection with private ownership, when something had occurred to interfere with the management and the operation of those utilities, that courts have taken jurisdiction, have appointed receivers and in some instances have allowed the receivers to manage the properties while such properties were within the jurisdiction of the court. For fear that that sort of a jurisdiction would not lie in courts in connection with property of a similar character owned by municipalities, this provision was inserted, so that in case a situation arose where an individual, acting for himself or for other citizens, would invoke the aid of the courts in connection with rates, with service, and all the other elements which go to make up the success or failure of that sort of an enterprise, that the Constitution itself shall provide that the courts shall have jurisdiction in such cases.

Mr. MILLER (Cook). Mr. Chairman, just a word in closing. I hope that this substitute will not be adopted. It seems to me it is much more dangerous than to do nothing at all and leave it just as it is, because it opens the door wide at once to unrestricted public ownership without any of the safeguards provided here. It opens the door for the acquisition of the public utilities by the people and for the disposal by the owners of those utilities to the people while they are in a peculiar mood in regard to their operation.

Mr. GREEN (Champaign). Mr. Miller, is the real conclusion of your argument that it would not be safe at this time to trust the General Assembly with the prerogative of laying out a legislative scheme for public ownership?

Mr. MILLER (Cook). I do not want to aid them and make any clearer than it is at present. I do not want to authorize the legislature to at once increase the bonding limit of all the municipalities in the State, including Chicago, to the extent of 15 per cent.

Mr. GREEN (Champaign). Well, I think that perhaps fairly answers it in this way, that you do not feel that there ought to be opportunity given the legislature to do that thing with no further restrictions than this provides?

Mr. MILLER (Cook). Yes.

(Substitute lost.)

CHAIRMAN WHITMAN. The motion at present is on the amendment offered by the delegate from Peoria.

Mr. RINAKER (Macoupin). I desire to offer another substitute.

CHAIRMAN WHITMAN. For the whole matter?

Mr. RINAKER (Macoupin). For the whole matter, including sections 9, 10 and 11.

CHAIRMAN WHITMAN. That would not be in order. We have already passed on sections 9 and 10. You cannot offer a substitute for something that is already passed. If you want to offer a substitute for sections 9 and 10, you first have to reconsider. The question now is on the adoption of section 11 and the amendment already offered to that.

Mr. RINAKER (Macoupin). Mr. Chairman, I will then offer this as a substitute for the section now under consideration, including the amendment offered by the gentleman from Peoria.

CHAIRMAN WHITMAN. That motion is in order.

SUBSTITUTE.

No liability or deficit arising by reason of any public utility shall be met or paid out of any tax, general or special, but shall be paid only out of the revenue received from one or more other utilities owned by said city, and no such utilities or the security issued on their account shall be exempt from taxation or assessment.

Mr. RINAKER (Macoupin). I move its adoption.

Mr. QUINN (Peoria). I much prefer the amendment offered by the delegate. My amendment was hastily drawn, and I think was subject to criticism. I know it is not parliamentary to offer a resolution and then argue against it. I want to point out what I think was a little deficient in mine. I am afraid that Judge Rinaker's is the same.

As mine read, "any deficit so or otherwise created, through or on account of such utility, shall never be paid or satisfied from the general or other funds of such city, nor shall it create any liability against such city which may be satisfied by taxes, generally or specially levied, but may only be satisfied through revenues coming to such city through such utility."

Now, I speak of revenues. I think I am in error. I think his resolution is in error. If a city authorized to go in debt, by bond, floating or otherwise, in debt to fifteen per cent of the taxable value of its real estate, goes into the utility business—Chicago under that plan could raise approximately \$400,000,000. It is told to us today that there is a scheme available to rehabilitate the transportation system of Chicago by the expenditure of \$200,000,000. My thought is this, that if they expend \$200,000,000 and while they are running along there is a deficit of a hundred million, they ought to have a right to sell more bonds to make up that deficit. They ought to have a right to go in debt two hundred million more so that these deficits, instead of being paid out of revenues only ought to be paid out of revenues or out of the sale of bonds, provided the aggregate indebtedness did not exceed fifteen per cent of the taxable value of the real estate. I have not thought of it enough. If I limit it to the revenues alone, they may have a bonding ability of 200 million that is available to them, and they ought to have a right to resort to them. I think the judge has limited his resolution so that it is limited to revenues. I think it is conceded as a general proposition that if they go into this business, that there should not be any debt, bonded or otherwise, exceeding fifteen per cent of the taxable value of real estate. They ought to have that as an available credit to go ahead and do business with.

Mr. HAMILL (Cook). Will the gentleman yield to a question?

Mr. QUINN (Peoria). Yes, sir.

Mr. HAMILL (Cook). If bonds should be issued to raise funds to pay a deficit from the operation of existing utilities from all the income, from what income would you pay those bonds, the second issue?

Mr. QUINN (Peoria). Why, I would sell some until I sold \$400,000,000.

Mr. HAMILL (Cook). And after you had sold \$400,000,000, from what income would you pay those?

Mr. QUINN (Peoria). There would not be any under my plan at all. It would be like every utility that could not be run any further.

Mr. HAMILL (Cook). In other words you want the city, as you advocate the scheme, to bankrupt itself?

Mr. QUINN (Peoria). No, I do not want them to start off and spend \$400,000,000 at once. I want them to spend \$200,000,000. They say that is enough, and then they have got left a reserve of \$200,000,000 more, and it while they are eating up that second two hundred million the people of

Chicago do not wake up and stop that proposition, then there ought to be a check on the people of Chicago.

Mr. SHANAHAN (Cook). I would like to ask the gentleman from Macoupin if under his plan in the City of Chicago they could take the water fund, which now amounts to considerable and is a paying proposition, and use it to go into the electric light business or into the street railway business.

Mr. RINAKER (Macoupin). I don't see why the City of Chicago or any other city—I only mention Chicago because you did—I don't see why any city that has gone into one kind of business and made a success of it should not use that business as the basis of going into some other if it sees fit to do so.

Mr. SHANAHAN (Cook). Then you say that under your plan that can be done?

Mr. RINAKER (Macoupin). Yes, sir, and I see no reason why it should not be done if you are going into that kind of business.

Mr. MILLER (Cook). May I ask the gentleman a question? Your amendment or substitute provides that no taxes shall ever be used to pay any of the bonds or running expenses of any public utility?

Mr. RINAKER (Macoupin). Yes, sir.

Mr. MILLER (Cook). Do you think that any municipality in this State, if that provision passes, could hereafter acquire a water system?

Mr. RINAKER (Macoupin). It could do so.

Mr. MILLER (Cook). You think it could acquire a water system?

Mr. RINAKER (Macoupin). I don't see why it should not.

Mr. MILLER (Cook). Do you know of any city that ever acquired a water system, wherever there is any such limitation as that?

Mr. RINAKER (Macoupin). Why, I am not familiar with the manner in which cities have acquired these utilities. I have heard several instances of them.

Mr. MILLER (Cook). This would require a city, town or village, if it wanted a water system, to go and try to sell bonds under the provision that neither the principal nor the interest on those bonds shall ever be paid by taxation?

Mr. RINAKER (Macoupin). Yes, sir.

Mr. MILLER (Cook). I shall respectfully suggest that no city in the world could ever get a water system under those circumstances.

Mr. HULL (Cook). Mr. Chairman, this is a kindness toward the taxpayer that it is intended to kill. I don't think that anybody who has stood for this proposal which I have fought for here has any desire to load the taxpayer with any obligation that is not necessary; that if you put in any such proviso as that suggested by Judge Rinaker, either you cannot sell your bonds, or you are going to load your proposition down with an additional interest charge which will make it difficult to make the proposition effective and successful, and for that reason I think this amendment ought not to prevail. If we are going to give the cities a chance to own and operate a public utility for the benefit of the consumers, let us give them the very best chance of success that we can give them and not hand them a scheme which, by the very limitations of the scheme itself, has no chance to succeed and that is what would happen if the substitute proposed by the gentleman from Macoupin should prevail.

(Substitute lost.)

CHAIRMAN WHITMAN. The question now recurs upon the amendment offered by the gentleman from Peoria, Mr. Quinn.

Mr. GREEN (Champaign). Mr. Chairman, may I make an inquiry of the gentleman from Cook and make an explanation that I think is very important with reference to this amendment? In the discussion of the substitute which I offered, I raised the point that you provide out of the gross earnings of the utility enough to meet the tax falling due for that year. Do I still understand you to mean gross earnings?

Mr. HAMILL (Cook). It says gross earnings.

Mr. GREEN (Champaign). I know it does, but that is not a typographical error?

Mr. HAMILL (Cook). Oh, no.

Mr. GREEN (Champaign). That is intentional?

Mr. HAMILL (Cook). Certainly.

Mr. GREEN (Champaign). Now, will you explain to me this situation—if you have a utility that produces a hundred thousand dollars a year income, and your tax levied for that year is a hundred thousand dollars, your gross income is a hundred thousand dollars, how would you pay the operating expenses of that plant?

Mr. HULL (Cook). I don't know as I understand your question?

Mr. GREEN (Champaign). We have an income producing utility that produces a hundred thousand dollars a year gross earnings, and the amount of tax falling due that year is a hundred thousand dollars. How would you pay the operating expenses of the utility?

Mr. HULL (Cook). My dear sir, if you want to start in with suppositions, you can kill any proposition by your supposition. If you want to say that you cannot possibly earn its operating expenses, of course, it cannot pay it.

Mr. GREEN (Champaign). Well, it is a fact that there are many utilities in the State that are not paying it right now. I am asking the question seriously, because you provide that to the extent that you have gross earnings, that you deposit them to meet the tax, and that to that extent the tax shall be collected. Now, I just seriously should like to know how that would work out.

Mr. HAMILL (Cook). If the gentleman will permit it, I think I can answer his question. In the given example, of course, a hundred thousand dollars would not be deposited because the most of it would be gone in paying current operating expenses.

Mr. GREEN (Champaign). But the provision is that it is deposited out of the gross earnings. That means before you pay any operating expenses, doesn't it?

Mr. HAMILL (Cook). No, the gross earnings includes your operating expenses. Your net earnings are only after you pay operating expenses.

Mr. GREEN (Champaign). But this does not say that you deposit out of the net earnings. You deposit out of the gross.

Mr. HAMILL (Cook). Certainly you deposit out of the gross. Now, you won't deposit it because most of your gross earnings will be gone by that time.

Mr. GREEN (Champaign). Well, then, wouldn't you be violating the plain language of this proposal that you should deposit out of your gross earnings an amount equivalent to the tax?

Mr. HAMILL (Cook). No, because it provides that if you do not, if you have not got the money, the tax will be levied.

Mr. GREEN (Champaign). Haven't you the money if you have the gross earnings?

Mr. HAMILL (Cook). No, because the operating expenses eat it up from day to day. You have got to pay your payroll every week.

Mr. GREEN (Champaign). Before you deposit your money?

Mr. HAMILL (Cook). Yes.

Mr. GREEN (Champaign). Doesn't that proposal say just the contrary?

Mr. HAMILL (Cook). No.

Mr. GREEN (Champaign). Well, then, I cannot read the English language.

Mr. MILLER (Cook). Mr. Chairman, may I answer that question for a moment? The gentleman from Champaign asked that question this morning, and then he left the room and was absent while I answered it.

Mr. GREEN (Champaign). I don't remember it.

Mr. MILLER (Cook). Of course you don't remember it, because you left the room or were talking or something else, when I answered it. Of course, if you assume that the amount you have to pay for interest, and so forth, is a million, and your operating expenses are 20,000 gross, why, of course, you are not going to pay your income out of your gross operating revenue, but assuming that the utility is only just capable of earning enough to pay the operating expenses and fixed charges, and, of course, we must assume that before we go any farther, otherwise it would not be the kind of a utility that we ought to go into—assuming that, then the idea is this: Net earnings, strictly speaking, would be after setting aside a certain amount for depreciation and renewal.

Mr. GREEN (Champaign). And operating expenses.

Mr. MILLER (Cook). I mean those in addition to operating expenses. Now, in order not to have improper figuring about those things, it is provided that they shall set aside this sum out of the gross and pay that in regardless of whether or not they have enough to set aside for depreciation and renewal. They have got to pay that in, and that very fact will prompt them to fix rates which will cover not only the operating expenses and fixed charges, and it will tend to reduce the danger of improper bookkeeping or covering up actual expenses. Now, that is the purpose.

Mr. GREEN (Champaign). Well, now, the question I asked, of course, was the extreme, but suppose that it was operating on an 80 per cent basis, as they do now, and that after you set aside an amount to pay interest you had lacking \$10,000 of having enough to pay your operating expenses. You would set this aside first?

Mr. MILLER (Cook). Naturally, the money that has to be paid out for wages and things of that kind is paid as they go along. It is assumed that there will certainly be enough to pay the actual wages and other operating expenses plus these fixed charges, because if that was all there was, then it would be going down hill fast, wouldn't it?

Mr. GREEN (Champaign). Now, in the event there were not, then what would you do?

Mr. MILLER (Cook). Why, you have got to raise the rates.

Mr. GREEN (Champaign). Your expenses are all out.

Mr. MILLER (Cook). My goodness, you can tell something about where you are getting at before you get over the precipice, surely. If not, the persons running the property ought to be in jail.

Mr. GREEN (Champaign). Well, with all due respect to that kind of answer, there would be a whole lot of public utility operators in jail now if they had to be bound by the rule that they must foresee that.

Mr. MILLER (Cook). No. What I mean is this, that it is perfectly plain, of course, for any business concern to foresee with some degree of accuracy where they are coming in relation to their expenses, operating expenses to income, operating expenses and fixed charges, depreciation, and so forth. They all do it.

CHAIRMAN WHITMAN. The question is on the amendment of the gentleman from Peoria, Delegate Quinn.

Mr. QUINN (Peoria). I read the amendment as it is at the desk, and I offer a criticism of it. I want it to read the way I really think it should read.

"Any deficit so or otherwise created, through or on account of such utility, shall never be paid or satisfied from the general or other funds of such city, nor shall it create any liability against said city which may be satisfied by taxes generally or specially levied, but may only be satisfied through revenues coming to such city through such utility from the sale of bonds or other obligations which in the aggregate shall never exceed the limit of indebtedness above fixed."

CHAIRMAN WHITMAN. The question then is on the amendment of Delegate Quinn as he now has sent it to the desk. Are there any remarks?

Mr. HULL (Cook). Mr. Chairman, I am satisfied to let that amendment go to a vote without saying anything further than that in general

effect it goes to the same point that the gentleman from Macoupin had in mind in his amendment. I don't think that ought to prevail.

Mr. MILLER (Cook). Mr. Chairman, let me say just this one word: Isn't it slightly illogical to say that you shall not spend any tax money to make up a deficit for a public utility, but you can issue bonds to do it? I really think that if we put that in we will be charged, when we submit this Constitution to the people, with having played a trick on them, and we will be justly chargeable with it. I don't see how I would have the nerve to face anybody and tell them that that is a part of the Constitution we are asking them to adopt.

(Amendment lost.)

Mr. SIX (Pike). Mr. Chairman, I have an amendment to section 11, by the insertion of a new paragraph between lines 17 and 18, as follows:

AMENDMENT No. 48.

Amend proposed section 11 by adding a new paragraph between lines 17 and 18, as follows:

"Any city owning or operating any public utility shall conform to all requirements with respect to the keeping of accounts and the audit thereof and to make reports as shall be prescribed by law with respect to such matters for any other persons or corporations owning or operating a like utility."

Mr. SUTHERLAND (Cook). Mr. Chairman, I would like to ask the delegate from Pike whether he would object to so phrasing that amendment that it would read that whenever the General Assembly did provide for the supervision of privately owned utilities, it should apply the same supervision to publicly owned utilities? As I understand that amendment, it practically writes into the Constitution the present Public Utilities Act.

Mr. SIX (Pike). I will answer that question by saying yes, that I would accept that. I have no idea of incorporating into the Constitution any system binding upon the legislature with regard to that subject, but I want just what he suggested. My amendment was written hastily. I only want if the legislature undertakes to govern utilities through any system, commission or otherwise, it shall govern municipally owned utilities in the same way.

Mr. SIX (Pike). This suggestion is from Delegate Hull, and while not in conformity with the one I offered, I think it will be satisfactory.

This takes out the rate making power, only; the State has authority to use it down State. I think this is satisfactory and I would like to see it adopted. The problem I was trying to solve was this, down State we would have reports from the larger cities that they were able to furnish service at a very nominal price and the result would be that several of our smaller cities would undertake municipal ownership, and not be enabled to double accounts as they are in the larger cities which soon run up against the lack of funds and would fail. I think this will enable us to determine whether or not we want to go into it.

Mr. GREEN (Champaign). Operating "like utility" that may be construed by the courts to mean utility of a like nature run by individuals.

Mr. HAMILL (Cook). A municipality, a municipal utility cannot be operated by an individual.

Mr. GREEN (Champaign). "Of like character" or something of that sort, it might possibly be that there would be municipal utility operated by lease or something like that.

(Amendment adopted.)

CHAIRMAN WHITMAN. The question is on the adoption of section 11 as amended.

(Adopted.)

Mr. HAMILL (Cook). I desire to offer a new section to be known as section 12—

Mr. QUINN (Peoria). Just a minute if you will please. We have passed section 11 and my attention was called awhile ago that early in the proceedings there was an amendment offered by Mr. Miller, there was an amendment in line five apparently to the effect that there would be some legislative action necessary, to enforce this provision.

Mr. HAMILL (Cook). That is what I referred to in my remark, isn't it?

Mr. QUINN (Peoria). Yes, in section 11, line thirty-two and thirty-three, they seem to be in conflict with the amendment by Mr. Miller.

Mr. HAMILL (Cook). You mean lines thirty-one and thirty-three?

Mr. QUINN (Peoria). Yes, that is self executing.

Mr. HAMILL (Cook). Yes, I agree with you. It ought to go out.

Mr. HULL (Cook). We have adopted that section, and I don't want to reopen the argument, but let me explain why that is there, you have a provision for the issuance of bonds and you have a provision calling for the levying of taxes every year for the payment of interest on those bonds and a portion of the principal of those bonds. This provision ought not to require any legislation, you have a like provision I believe now in Article 12 of the present Constitution covered substantially by Article 8 of the present revenue article. That provision is held by the courts to be self-executing, so that the county officer or who properly exempts the taxes will tax under its authority, without any legislative action being required to do it. It is considered desirable that it should be left here, so section 8 was put in. It is a matter of construction, no difference between sections 8 and 9, and also it was put in because the question of the jurisdiction of the courts to consider the questions whether respect to the reasonableness of rates would be perfectly apparent by the article itself and would not require any legislation, and I believe that that provision should not be taken out. Your point is on the amendment offered by Mr. Miller?

Mr. QUINN (Peoria). Yes, by Mr. Miller.

Mr. HULL (Cook). Why not put in the provision this article except as otherwise provided herein shall be self executing?

Mr. QUINN (Peoria). I have no objection as to how you word it, but I do not want to handicap it in any way. It just seemed to me there was an inconsistency there as to how you were wording it.

Mr. MILLER (Cook). I had the unanimous consent of the committee to insert the words "just" suggested by Mr. Hull "except as otherwise provided herein."

(Consent given.)

Mr. MILLER (Cook). Then it is very plain that the purpose is to make the whole scheme turn only on action by the General Assembly, and that is not made entirely clear, the committee here will take care of it.

CHAIRMAN WHITMAN. There being no objection, those words will be inserted.

Mr. HAMILL (Cook). I offered the following amendment to be known as section 12.

AMENDMENT No. 49.

SEC. 12. No municipal corporation shall incur any debt for acquiring, constructing or operating any income item producing property for the supply of transportation, communication, light, heat, power or water unless such debt shall be authorized and provision for the payment thereof and interest thereon be made as in sections 9, 10 and 11 of this Article provided.

Mr. HAMILL (Cook). That is substantially the article as I read it to you earlier in the day. I have stricken out the words "public utility" and inserted the words "property for the supplying of transportation, communication, light, heat, power or water" because it was called to my attention that the words "public utility" were of somewhat doubtful import and might possibly embarrass some of the municipalities in cities in some of their present activities. I tried to avoid that difficulty. The effect of the article

as I have drawn it I believe will preclude the possibility of superimposing on any existing municipality another municipal corporation with the power of issuing its bonds at five per cent of the taxable value, and with the proceeds of those bonds acquiring public utilities. It would confine the activities of municipalities to this article. They would have to refinance or repay the bonds issued in thirty years, and they would have to pay that out of the proceeds of the utility so far as those proceeds are available.

Mr. HULL (Cook). I would like to ask a question or two with respect to determining my own attitude in regard to your proposal. You confine it to transportation, communication, light, heat, power and water, do you not?

Mr. HAMILL (Cook). Yes.

Mr. HULL (Cook). Now what about a public street lighting system, street lights on the streets of the city, isn't that a public utility?

Mr. HAMILL (Cook). I don't consider it would fall within this. That is property for supplying—we should perhaps put in after the word “supplying” the “public” such plant as you have in mind as a plant which furnishes light only to the city streets.

Mr. HULL (Cook). Yes.

Mr. HAMILL (Cook). It does not sell its output?

Mr. HULL (Cook). What I had in mind was properties supplying a street lighting system.

Mr. HAMILL (Cook). It was supplying lights for the inhabitants of the city?

Mr. HULL (Cook). Yes, for private consumption.

Mr. HAMILL (Cook). For private consumption. I am quite confident that will be the construction of it. If there is doubt I should not object to the insertion of the words which would make it clear.

Mr. HULL (Cook). All right.

Mr. HAMILL (Cook). The first section of section 9 describes it as income producing properties. I left out the word “income” and if it is desired to be inserted I have no objection. The reason I left it out, it might some time be proved that property was not income producing, and I wanted it to apply to it. May I ask the Senator who proposed this section if he thinks the section would be safer if the words “income producing” were added. I have no objection to it.

Mr. HULL (Cook). You mean in place of all of your amendment?

Mr. HAMILL (Cook). No.

Mr. HULL (Cook). I do not believe I would want to amend your proposal.

Mr. TRAEGER (Cook). Would that have any effect on the Recreation Pier?

Mr. HAMILL (Cook). No, I think not, it was largely because of that I changed the word public utility and confined it to transportation, communication, etc.

Mr. TRAEGER (Cook). It will not in any way affect the financing of our water system?

Mr. HULL (Cook). No.

THE CHAIRMAN. Do you desire to make any change?

Mr. HAMILL (Cook). Let it stand as it is.

Mr. MILLER (Cook). I move the words “income producing” be inserted before the word “property.”

Mr. HAMILL (Cook). I will accept the amendment.

THE CHAIRMAN. The amendment is accepted. Are you ready for the question?

(Amendment adopted.)

Mr. GEE (Lawrence). I wish to offer the following amendment and move its adoption:

AMENDMENT No. 50.

SEC. 13. The foregoing sections 10 and 11 shall only apply to cities having at least a population of 100,000 according to the last U. S. census, of resident inhabitants.

Mr. HULL (Cook). I am embarrassed by this amendment. I think the proposal is applicable to the entire State. I know there are some people in my town who will be against my proposition, and I know down State some will be for it and some against it, and I don't really know how to vote on this proposal. It did not occur to me that I would be up against a proposition of that kind, because if the proposal has merit in it it should apply to all cities and if it has not merit it should apply to no city, and therefore, I find, gentlemen, that I really am in doubt and I think it should be left to the majority of the citizens in the community in which we live, because I called attention to the fact that by the section we have adopted there is a provision that no such authority shall be issued without a referendum in the community, and inasmuch as it would not be operative except by approval on a referendum vote of which I think three-fifths of the people are expected to approve, before it can be put into effect, I am inclined to think I should vote against the amendment.

Mr. KERRICK (McLean). I feel this way about it, no municipality, at least it has not appeared that any municipality outside of Chicago desires this provision. We saw no one here who would have introduced any such proposition as has just been submitted, and it occurs to me that this being expressly, as admitted by everybody, and the success of which is doubted pretty generally, only by Chicago, it would be very unwise, the question being one which has not been publicly discussed to any considerable extent, would say as applied to this body, I think we would perhaps be acting unduly hasty to impose the operation of this upon the major portion of the State, on many municipalities, big and small, without having heard any demand of that kind before committees or otherwise, regardless of whether or not it is a good thing it strikes me it ought not to apply any further than seems to have been the sentiment in favor of this appliance. There is plenty of time and nothing will be lost by municipalities outside of Chicago, to await the operation of it as applied to Chicago. I don't know of any municipality, there may be but I don't know of any other municipality that has been urging anything of this kind. It is true, I am well aware of the fact, that the operation of the Public Utilities Commission is very unpopular in many localities. Perhaps it needs looking after, but that can be attended to by the legislature. The matter of amending the Constitution in this one particular, would probably be a mere matter of form, if after two or three or four or five years, or the length of time required to observe the operation of this proposition in Chicago, it would be a very easy matter if it was proved there that it was a good thing, then undoubtedly there will be no opposition down State to an amendment to the Constitution which would bring the municipalities of the State under the operation of this general proposition. The mere fact that it can only be imposed on any municipality by a vote—I don't care if it is three-fifths vote of the whole number of votes cast at the election on the proposition submitted, we must admit that the people are not at all times and under all circumstances the best judges of what is good for them, I find myself in that attitude frequently and it would probably be a very easy matter if this privilege is extended, or whatever you call it, this burden to the people all over the State, there will be many municipalities consisting of a population that will vote nine to one for anything you might say, if it is properly worded. Let us go a little slowly. Chicago is willing to undertake it and may the Lord help us. I hope it will be a success, I hope anything we approve here will be for the best under all circumstances, but manifestly nearly everybody has more or less doubt about the operation of this, so gentlemen, now I would suggest and I think it is an appropriate suggestion that since Chicago is going to get whatever she wants in this matter there is no reason why, that I can see, without any general request or apparently any general desire on the

part of municipalities down State, those which are under one hundred thousand, for the use of this proposition and it ought not to be a case where the people have gotten it for themselves should very seriously oppose a proposition which will be to the effect that the operation of this shall be limited to cities of one hundred thousand.

I think myself I have a very strong conviction about it, we better not have it turned loose on the people down State, this time, especially when we may take the benefit of observing what its operation is in Chicago. I hope the amendment will be adopted.

Mr. GEE (Lawrence). I want to explain to the gentlemen of this convention why I offered this amendment, first I want to say I did not offer it for the purpose of interfering in any way with Articles 9, 10, 11 and 12, which I see, is peculiarly a matter of moment to the City of Chicago. I want to do, as a member of this convention, all I can conceivably do to assist the City of Chicago in its needs and I have listened attentively to all of the debates on sections 9, 10 and 11, and the last analysis to my mind was a crying need of relief from Chicago. Coming as I do from a district that has not now and probably never will have any large cities, or any of the troubles, differences of opinion, strifes and selfishness that may occur in other places. I have been unable, after some investigation of the sentiment of my people, to learn from them any desire to enter into any kind of constitutional amendments which will provide for extending the limits over five per cent of indebtedness on the taxable property of the people of my district. It may be fortunate for us that we are enabled to have the public utilities, at least light, heat and water, the necessities of life, without having any increase of the rates, to get in debt, and we are perhaps fortunate in the fact that we have now on the statute books ample authority, which so far has provided us with those necessary things. The people of Chicago do not seem to be in that fortunate condition, and in entering upon the assistance I have given to the several sections, 9, 10 and 11, to the gentlemen of Chicago, I have done it because I thought they needed the relief they were crying for.

I want to digress a moment, gentlemen, to touch on a question that I think is worthy of our attention, although by our votes now we have passed that trouble. The investor in bonds which are issued for this kind of property, public utilities, is a small thing apparently because it has been scarcely mentioned in all of these debates, yet to my observation he is the real man behind the gun, which makes possible these public utilities in the large and small places. To my own observation recently I have known of some small investors to be switching utility bonds in the City of Chicago because they seemed to think there was a threat that might destroy the utility on which was based the fact of the income that was paid them on the interest of their bonds.

Now, gentlemen, nothing is more scary and timid than capital, and nothing you look after more closely than the money in your pocket. I have heard it discussed, that it was obviously unjust to tax by general taxation a man who had been operating a public utility, and yet I think it is just as unjust, and even more so, to tax and to grind to death a public utility and the owners of it to furnish cheap transportation and cheap lights and heat to somebody else. The difference is that the public utility privately owned is always considered with an idea at least of some profit to the stockholder, and I do not think we are going into the home rule proposition on public utility ownership on the theory of profit at all, and I like the section 11 that we passed for the reason that it guarantees to the investing man a certainty of the return of his interest and capital so invested, and it is left to the people of that kind of a city or municipality to see to it that the rates are such that it will guarantee an income sufficient to take care of the investor's interests and principal as well as the operation of the utility itself, and no one can have an eye better to carefulness of management than the people who own the utility. A privately owned utility is carefully looked after; there is no reason why a utility owned by a municipality

cannot be looked after with the same degree of care, and if the people won't look after their own interests nobody should.

Now to my point. Having now the authority of law, we have been able under the 5 per cent limitation of indebtedness to provide ourselves with the things that we most need in those lines, but we don't want to go a step further, gentlemen, having all of the provision that we need, we part company with you when you start to put in a fifteen per cent more liability. That may occur by mismanagement of the municipal officer. That is what I am trying to guard my people against, because sufficient opportunity exists now to get the things they want. It seems to me from what I have heard discussed, taking it from the eminent gentlemen who know these things, in the large city you cannot meet the question of the dollar by the limitation you have, so I have gone with you clear down the road as you blazed it out, and I think you blazed it out carefully, to protect the municipalities, if the men in power will protect the municipality itself. You again protect the man of small means that invests in municipal bonds, expecting you will safeguard their rights, and if they fall down they have another security in the people themselves.

Now we do not need this, and I have introduced this amendment for the purpose of limiting the application of this section to cities of one hundred thousand, because cities of less population do not need it, and I think as we have been fair with you should be fair with us on that.

Mr. KERRICK (McLean). This will not be another argument, but I just want to make an illustration showing why I feel like I do. Not very long ago the Lake Waters and Streams—I believe is the name of the Commission—under its power ordered the City of Bloomington to go to the expense of taking care of its sewage on the complaint of one individual on the west side of the city. That has required the towns of Bloomington and Normal to combine in a sanitary district and to provide for a tax up to the very edge of the limit of the present Constitution, notwithstanding that the city is confronted with needs that will be very difficult for it to take care of; besides there was a vote had on that question recently, at which nearly nine thousand votes were cast, and what seemed almost an unbelievable situation happened. It resulted in an exact tie, precisely as many votes on one side as on the other, where there was no considerable time nor any organized opposition, nothing but the deep-seated feeling of the people of these two communities, that the burden was one that was almost unbearable, under the present limit. There will be another election called in a very short time, the law provides for it, and what the result of it may be I don't know, but in view of that and in view of the further fact that Bloomington has no fault to find with the service rendered by its public utilities, none whatever, and I think many other cities of like proportion and conditions, are in the same situation. Now I would feel almost ashamed to show my face in Bloomington if I did not do in my feeble way what I could to have prevented being made law, and put us under the obligation, at least a possible obligation, and I might say almost unbearable obligation, that it will be overwhelmed if the limit is raised as this provision would, if it were to apply. Now I have not heard—and this is something in the way of repetition, I have not heard of any demand, I might say any demand from any other source than the great city at the lake, whose conditions are entirely different from any municipality down State. I think it is opening the door to what in my mind would be an absolutely unbearable weight of taxation which might be imposed on it by people who did not think deeply on where the money is to come from. In almost every city elections will be carried by the vote of people who contribute not one cent towards paying for the privileges that would be obtained by the expenditure of this money, and so I sincerely hope that the gentlemen who are here from the City of Chicago or the County of Cook will not feel that upon principle or otherwise they are required to vote for this proposition where it is not asked for, and in my opinion is not desired by the people, that this matter should be imposed on them.

Mr. CARLSTROM (Mercer). I think it is only fair on behalf of the people down State, outside of the County of Cook, that someone speak for the rest of us. I don't want the gentlemen from Chicago or Cook County to get the idea that they have heard the voice of everybody down State, not by a good deal. I don't want the gentlemen of Chicago to conceive the idea that there is not a demand down State for this very thing. There is and has been a substantial insistence and persistent demand on the part of all municipalities to supply their own needs, if they cannot be supplied under satisfactory circumstances by other people.

So far we have written an article and gone along with you because we believed it was right in principle and not because it was Chicago, but it was because we believed it was right in principle. We have gone along with you and written an article which leaves to the legislature the passage of an act enabling the cities and villages to avail themselves of protective provisions which we have placed in this article, with reference to financing of the public utilities. Now that is left entirely within the hands of the legislature, and in their judgment they will pass an act and with such restricted conditions in addition to these which we have applied to the financing of the proposal enabling cities to avail themselves of the right or privilege of owning their own utilities, we claim here and have repeatedly asserted that we should leave to the legislature in some measure the confidence and discretion as to the control, and that we should not tie their hands.

What this amendment proposes to do is that this body of gentlemen shall say to the legislature that you shall under no circumstances and under no conditions ever allow that kind of relief to the cities of the State of Illinois outside of Chicago. Is that right or fair? Is there anything fair about that? We have provided a three-fifths majority must agree in an approval of a proposal to purchase and acquire a municipal utility for a city. That looks fair. We have said here and I have heard it repeatedly said that the people must bear the burdens of their own mistakes. I believe it is a correct principle. We will never learn government at all until we have tried and experienced and profited by the mistakes which we make. I have confidence in the city in which I live, and I know the people of many cities down State have implicit confidence in the cities in which they live. I believe from what I heard, from the gentlemen from Chicago, from the conditions existing there we have equal opportunity to rely on the people down State in acting on this question. It does seem to me it does not bear on the issue, as to what happened in Bloomington as to the disposing of sewage, which they ought to at least find some method of disposing of. How that touches this question I cannot see.

We have now the machinery whereby we can acquire these utilities and we have the act authorizing these villages to acquire municipal electric lighting plants, but there is no means whereby we can finance the acquisition of it; we have been right square up against that proposition down State. The five per cent, which most of the cities and villages have acquired for utilities and other purposes, does not leave a margin for any city down State to go into the proposition and protect themselves. It is only fair, isn't it, gentlemen, I appeal to you in a spirit of honesty and fairness, isn't it right that the legislature should be privileged to grant us that right if the needs of the future make it expedient. Why should we say to the legislature, "No, you shall never grant this to any city in the State of Illinois except Chicago." We don't want you to get the notion that the people down State are opposed to this thing. I say to you I don't believe they are. I believe it is such a forward looking movement that they ought at least have the right for the legislature to act and give them the opportunity to do it if they see fit. Sincerely I hope this amendment will be defeated for those reasons. We have safeguarded it by this provision, we have safeguarded it by the method of accounting system, we have thrown every safeguard around it we could, and the people are asking for this

proposition, and as I said to gentlemen once before here when I was a delegate to this convention, I have never been a believer in the municipal ownership. I did not then and I do not now, but I can see that under proper regulation, possibly privately managed concerns are as a rule much more economically managed, but I tell you this, gentlemen, the people of this State are looking forward to some provision leading to home rule, and it is them we speak of when we say we are not responsible to anybody but the people and God Almighty. It is them we are listening to, and tens of thousands of circulars were spread broadcast in Rock Island, and in Moline, Rock Island and Sylvus when I was a candidate to this convention, the distribution of which I acquiesced in although not in principle, but I promised that I and my colleague were for home rule, and we voted for it, because we said we would. And I want to say to you in that center of population there are one hundred and twenty-five thousand people in that county, they have expressed themselves on this matter. When you get to the proposition of the reason for the vote received by some candidates in the last primary election down State, you will find that it was based absolutely and solely on this proposition that the people wanted a right to say something about their utilities, and if it had not been for that you would have found a different sentiment expressed by the ballot in the election. That was the issue. We are responsible and only responsible to the people and Almighty God. In justice here I say listen to the people a little bit. We appeal to you and say if we believe we can safeguard ourselves under this provision we believe we ought to have the right to try and experiment the same as you. We believe it is equitable, just, right and fair. We hope this amendment will not be adopted and I believe I speak for just as many people as the gentleman from McLean, down State.

Mr. KERRICK (McLean). I was not speaking for anybody, particularly; I did mention my own locality; I know the gentleman from Mercer made his campaign against the Public Utilities Commission because he so advised us, and not on this project at all.

I happened to be a member of the revenue committee. This is a revenue measure and is proposed here in connection with the article on revenue, and when that committee was organized it was decided from the start that the widest possible latitude in the matter of hearing requests on everything from everybody and every part of the State of Illinois would be allowed.

And I can say, with a belief that I shall not be contradicted by any member of the committee, that no single individual from any part of the State of Illinois appeared before that committee to express a desire on his part as the individual or representative of any community that the towns and cities in the State of Illinois outside of Cook county should have a proposition extended to them or applying to them such as the one under consideration.

I am in sympathy with what the gentleman from Mercer said insofar as the motive from which he speaks is concerned, his feeling and stand in the campaign, and that was the feeling of the community that they did not like the operation of the Utility Act under the commission, he did not believe that their administration was what it should be. That has nothing to do with the question here at all. The matter of what that commission shall do or who shall compose it is an open matter to the legislature and executive department of the State to settle in accordance with the wishes of the people in his community or any other community according to what seems right. It does not touch this question at all. I am not professing, as I said, to speak for anybody, in particular. I have not been advised by anybody coming before the Committee on Revenue, of which I was a member, as to what they wanted. I only know that I know of no request from any source either direct, or indirect, from other parts of the State or district from which the distinguished delegate who has just spoken comes from,

and I do not believe that what his people were opposed to relates to this matter at all. They said they would have felt that their remedy was a provision of this kind, if so they would have stated it before the revenue committee, which was constituted for the purpose of taking such matters under consideration.

Mr. MILLER (Cook). May I say a word on this motion, and particularly to the delegates from down State. One thing we must remember is we must get the Constitution adopted if it is going to do us any good. When the gentleman from Bloomington said we feel it is because the people in our city will vote in municipal ownership and operation it seems to me there is no escape from the conclusion which confronts us that there is a condition there, that there is a considerable element of public sentiment in that city in favor of some kind of municipal operation. I don't know how you are going to get away from that proposition, those people are going to vote too on this Constitution. Now this proposal safeguards the proposition in three different ways, as it is not safeguarded now, two at least are not safeguarded now. Your municipal ownership is now safeguarded in that you have got to go to the legislature in order to get a traction district authorized, and that is the only safeguard you have got. And if this goes through you have got first the necessary action by the legislature, you have got in the next place a sixty per cent vote by the people, and you have got in the third place a plan which places its operation in such a way as to make it self-sustaining in every way, all of which you have not got at the present time. Now why can't you say to the more conservative people, sincerely and truthfully say that what we have offered is a conservative plan with all the safeguards reasonably possible, and yet at the same time you offer to the people who want municipal ownership, you offer them a way to do it, which is only safeguarded by reasonable safeguard. It seems to me it is a sane and fair thing to do, and it seems to me you are probably in the same situation, very largely, down State as we are in Chicago. If there is a demand it ought to be reasonably met.

Mr. SCANLAN (LaSalle). Isn't it also true in the down State cities, where public utilities now exist, for instance, water plants, their hands are tied now by the five per cent indebtedness, and this raises it to fifteen per cent and gives them a chance to float bonds and handle the utilities, better than the old owners of existing utilities?

Mr. MILLER (Cook). Not by this provision itself. In the first place it is necessary to have the action of the legislature, and in the next place a sixty per cent vote of the people.

Mr. SCANLAN (LaSalle). But is the foundation; you give them a chance to rehabilitate and enlarge their present existing water plant?

Mr. MILLER (Cook). You can do the same thing at the present time by a vote of the legislature creating a new district, or otherwise.

Mr. SCANLAN (LaSalle). But this is without creating a new district at all?

Mr. MILLER (Cook). It requires action of the legislature.

Mr. SCANLAN (LaSalle). Yes, and it gives them a better chance to get their money to take care of the present existing utilities, than the law now does.

Mr. MILLER (Cook). Yes.

Mr. SCANLAN (LaSalle). I don't want the delegate from Chicago to get the idea that because some people express an opinion that they don't want it at all, cities don't want it. I am not afraid of the people of the cities in my district recklessly voting on themselves a debt that they cannot handle. In my opinion the people living in the cities are owners of property to a large extent, and they not only do the voting but pay the taxes. That may not be true in other parts of the State but it is true in my district. I am willing to trust to the people of my district the question of whether they want a thing of this kind or not. I know in some of the cities in my district they are handicapped by the five per cent provision in handling the water plant. In the City of LaSalle, particularly, they are bound

by the old five per cent limitation. I think this furnishes a foundation to reorganize and refinance and rebuild its property. I am not a bit afraid of the people in my district. I am willing to trust them to vote on this proposition and I think they will do so intelligently. I do not think it ought to be limited to cities over one hundred thousand but ought to be State wide. Let the people use their intelligence when they go to the polls, and I think there will be no trouble down State whether they want it or don't want it.

Mr. KERRICK (McLean). You have said that we ought to take into consideration what the people expressed by a common vote. At the same time would there be any need of any Constitution if we take that sort of thing for our guide?

Mr. MILLER (Cook). What sort of thing?

Mr. KERRICK (McLean). A vote now and then on the same proposition. You say what was indicated was a sentiment because there had been a vote in which the people wanted further control of municipalities. Now applying that doctrine are you prepared to vote as Chicago did on the question that was presented in those four or five questions that were voted on in Chicago last fall?

Mr. MILLER (Cook). No, I am not.

Mr. KERRICK (McLean). I was afraid you might be, I don't know.

Mr. TRAUTMANN (St. Clair). I understand the delegate to say that no one from down State appeared before the Committee on Revenue to discuss this question, and say to them that the people down State were for it. I would like to ask for information, if it is not a fact that the Committee on Revenue did not handle this proposition, the only place it was discussed was in the Committee on Chicago and Cook County, I mean isn't it a fact that this particular part of the revenue article was not discussed, which was offered here by Delegate Hull?

Mr. KERRICK (McLean). I don't know where it was offered, I only know it was not offered or discussed before the Revenue Committee. I know it is now offered here as a part of the revenue article, and that is all I know. What happened before other committees I don't know, I heard no one speak in a general discussion about that matter, I heard no one speak of receiving people coming in here to discuss it.

(Amendment lost.)

Mr. GREEN (Champaign). I desire to offer an amendment as a provision to the article, assuming that this subject of home rule is out of place, which I think should perhaps come up when we were discussing sections 1 or 2.

CHAIRMAN WHITMAN. You offer that as section number 13?

Mr. GREEN (Champaign). Yes.

AMENDMENT No. 51.

SEC. 13. The term income as used in this Article shall not be construed to include the mere advance in value of property.

Mr. GREEN (Champaign). I don't think it requires any extended debate because we are all in accord with it, we are aware of the great evil that has grown up, that has been placed on the Federal government and the Constitution under which Congress has passed legislation which requires income which is derived from mere advance in value to be taxed; that is if a man buys a farm before March 1, 1913, or owned a farm at that time, or bought it since, its value as of March 1, 1913, or when he purchased it, since that time it has increased, the price is subtracted from the price which he might sell it for, and that is treated as income and taxed at current year's rate. I take it we do not want to be in the position in Illinois of taxing mere advance in value for the purpose of income tax.

Mr. HULL (Cook). Suppose a man is in the business of buying and subdividing lots, when he buys and subdivides, he gets people in there and

advertises it a good deal and gets a market and profit out of it, is that income?

Mr. GREEN (Champaign). I don't think it should be for this reason—that money after all is just a different form of his capital, I understand that there may be some difficulty of administration in purely speculative operations like Board of Trade and things like that, but I don't think an amendment in this form would preclude treating profits obtained from that kind of transaction as income, mere advance in value.

Mr. HULL (Cook). How do you treat the condition you bring up in your reply by telling here a man speculating under Board of Trade, isn't that income?

Mr. GREEN (Champaign). I think if he bought wheat and the price changed, it might increase in value and it might go down, it might decrease in value, those things do not affect us very much because the advance on one side is offset by the decrease on the other side.

Mr. HULL (Cook). How about speculation in the stock market?

Mr. GREEN (Champaign). If it is mere advance in value it ought not to be subject to income tax.

Mr. HULL (Cook). Suppose a man is short on the stock market and makes a bunch of money, is that income or what is it?

Mr. GREEN (Champaign). If he never owned the stock I think it is income. You are asking me legal questions and your opinion is worth as much as mine. Under the Federal Act in 1867 which provided for tax on income, before the amendment, or allowed tax on incomes from whatever source derived, which is the expression you use in one place in this article, that question did come up and was decided by the Supreme Court of the United States and they held it did not include mere advance in value as distinguished from income, from the profits of the business or gains from labor, gains from the transaction of a mercantile business or the product of labor.

Mr. HULL (Cook). I am simply asking you for information. If that rule had been applied in collecting the Federal income tax during the period of the war, wouldn't it have been impossible for a lot of these men who bought up supplies, known as profiteers, to have gotten stock free with reference to all questions so far as their income tax was concerned?

Mr. GREEN (Champaign). I expect it would, but I think it is beneath the dignity of the gentleman who asked such a question as that to put into the Constitution we are putting into effect penal statutes. I presume there will be abuses grow up in different forms, but it is introduced for the purpose of the substantive effect on the situation which has developed in the places where farm lands have increased in value, where they are bought and sold and exchanged, and indeed the taxes on sales of that kind make it almost prohibitive. The United States Supreme Court in the famous case of *Gray vs. Burlington* used this language: "The advance in the value of property during a series of years can, in no just sense, be considered the gains, profits, or income of any one particular year of the series, although the entire amount of the advance be at one time turned into money by a sale of the property." "The mere fact that property has advanced in value between the date of its acquisition and sale does not authorize the imposition of a tax on the amount of the advance. Mere advance in value in no sense constitutes the gains, profits, or income specified by the statute. It constitutes and can be treated merely as an increase of capital."

After the amendment to the Federal Constitution in the decision concerning the excise tax statute, the only place it has been possible to present it, they have held the contrary view, that the insertion of the words in the amendment, "from whatever source derived" enabled the Congress of the United States to reach out and gather in incomes which were from mere advance in value, and that there is no distinction between income of that kind which is a mere increase of capital and gains which are from labor or the transaction of a business, and it would be a calamity in Illinois if a mere advance in value be made subject to such income tax.

Mr. MILLER (Cook). Wouldn't it be better, I agree with you in principle, but wouldn't it be better to limit that to such gains as made in the usual course of the man's business. In other words if a man is engaged in the speculation in stock, if that is his business, or speculation in wheat, if that is his business, or real estate, dealing in real estate, as a regular business, isn't it fair that he should have his income taxed just the same as anybody else if that is his regular business?

Mr. GREEN (Champaign). I agree with you if that is his regular business, but mere advance in value, that is the distinction. A bushel of wheat has a value, but it may be that in six months it would fluctuate and would not have, if it was just an exchange, it might be that in the matter of administration it would be impossible to reach it, but we—I don't believe we should attempt to get into details, because there would be no end to it.

Mr. MILLER (Cook). Well, market value would be the value, and a five cents difference between wheat today and tomorrow would be an increase in value, and if a man is engaged in that business it seems to me he ought to pay. My suggestion is that we limit that to cases not the result of the business in which the party is engaged.

Mr. GREEN (Champaign). The very question that Senator Hull asked about, about a man subdividing property; he may greatly increase the capital by subdivision which goes into the channels of trade. It is a matter of policy it seems to me, that gains from that kind of transaction should be exempt from income tax. It is transferring capital from one thing to another. If you change one of these lots to some other form of property under the Federal law it would be subject to income tax.

Mr. SUTHERLAND (Cook). It seems to me a very recent discussion here demonstrates the wisdom of placing or attempting to place an income tax on that kind of property, by a provision in the Constitution; conditions are going to arise which would make it very difficult to administer it. We, ourselves, are not agreed as to the actual meaning of the words here proposed, they have no place in the judgment of the Revenue Committee in the revenue article of the Constitution. The General Assembly may define what is income or net income, but for us to do it seems to me is error.

Mr. JARMAN (Schuyler). When the first section of this article was before this convention I asked the Chairman of the Revenue Committee whether or not it would be advisable to add to the word "income," "gains and profit," indicating at that time that the 16th amendment to the Federal Constitution permitted or gave to the Federal Government the power to pass an income tax, that the Congress under that power had levied a tax, on income, gains and profit. And since the passage of that law, and now pending in the Supreme Court there was some disagreement or contention as to what the word "income" meant. I understand there are several cases before the Supreme Court now with reference to a matter of a corporation whose stock account was carried at one million dollars. At the end of the year the corporation dissolved and sold its assets for two million dollars, and the Government claimed that was subject to the income tax, and the individuals claimed that it was not subject to the income tax. The government claiming because they had sold the assets for two million dollars it was income within the constitutional provision, and within the statute passed by congress. The chairman of the Revenue Committee stated to me and stated to the convention, as I understand, that the word "income" included and was synonymous with the words gains and profits. Now it certainly would be an unfair proposition, and a very unfair thing for this convention to say to me that if I invested ten thousand dollars today in a farm, and next month I sold it for fifteen thousand dollars, and made five thousand dollars that I should not pay a cent of income, when it would say to a man who was in his store selling goods that if he made ten thousand dollars he must pay income tax, or if he made fifteen thousand dollars by his effort in a profession, or otherwise, he shall pay an income tax; but the man that dealt in real estate and made five thousand off a farm would not have to pay income. Now, if you put that proposition before the electors

of this State and say to them, we will levy an income on your salary and the profits on your farm, but these real estate men will not, they can deal in real estate all they please because they may say "here is the value of the lots," and therefore they are not compelled to pay an income tax. No, if anything is to happen with reference to this section, and with reference to income the words "gains and profits" should be added, and nothing should be subtracted.

Mr. GREEN (Champaign). The delegate is certainly not familiar with the consequences that have followed in the communities where the principal industry is agriculture, to say that the difference in the value of farms between the time of acquisition and the time of sale should be subject to income tax, as a gain or profit. It doesn't make any difference whether you say incomes, gains or profits the result is to absolutely stagnate and penalize the progressive development of large holdings, to accomplish the very things that everybody thinks should transpire in Illinois. Under the old law of 1867 the term was income, gains and profits; that was the exact language, and in speaking about it the court says that can be in no sense considered gains, profits or incomes. That was the language before the amendment to the Constitution, and the only addition, in so far as this matter is affected in the constitutional amendment was the insertion of the words "from whatever source derived." The courts there construed it not to include advance in value, but with the words from whatever source derived they are putting a different construction on it. Those words had not been used in the old statute. And after all if a man buys a farm for ten thousand dollars and sells it for fifteen—suppose he exchanges the same farm for another and really secured a farm worth fifteen thousand for the one for which he has paid ten thousand, he has just transplanted his capital, and the income tax to be workable must never penalize increase of capital. The man is just exchanging one farm for another. A man sells capital stock in a corporation at a profit, more than he paid for it, and he turns around and buys a farm; he has really realized no particular income because he put it in a different place. What that produces while he owns the stock, and what the farm produces after he gets it, is income, which this convention should define as income, the gain which comes from invested capital, but not the gain which comes from the conversion of capital from one form into another.

Mr. REVELL (Cook). I wonder if Delegate Green would not make that a little clearer for me. He says "from advance in property." You mean advance in the sale of the property?

Mr. GREEN (Champaign). It would not be taxable if it is not sold; the mere advance is not taxable if you keep it yourself.

Mr. REVELL (Cook). If you sell it?

Mr. GREEN (Champaign). No, sir, if you sell it or hold it; one man holds it and another sells it; whether you take it out or leave it in.

Mr. REVELL (Cook). I did not understand that that was subject to tax under the Federal law, not unless it is sold.

Mr. GREEN (Champaign). Oh, no, not unless it is sold.

Mr. LINDLY (Bond). Would there be any income under your section here, except what you earned?

Mr. GREEN (Champaign). Yes, you protect the invested capital, but if you had a farm and got ten dollars an acre or twenty dollars an acre off of it, that is income, that is not mere advance in value. If you have bonds and they draw you five per cent income, that would be income. The bond might go up or down, but that would not be affected by the tax.

Mr. LINDLY (Bond). The same thing with dry goods and everything else?

Mr. GREEN (Champaign). I think if it is mercantile, connected with labor, it would.

Mr. LINDLY (Bond). It says "value of the property;" if you had a stock of dry goods and it advanced it would not be profit?

Mr. GREEN (Champaign). If you bought the goods and sold it out at once that might be taxable.

Mr. LINDLY (Bond). Why would the same thing not apply to lots in town, if you bought it at so much and sold it at an advance, the same as to dry goods?

Mr. GREEN (Champaign). It is a mercantile business; the bolt of calico has not gone up, but if it is retailed at one price or value, it is bought at another.

Mr. MILLER (Cook). Suppose it went up?

Mr. GREEN (Champaign). If it went up there would be no loss, and you could not deduct it from income either.

Mr. DAVIS (Cook). All the questions asked make it clear to my mind that there is a necessity for making some distinction between profit derived from a transaction and the mere advance in value, not as the result of any transaction. I don't think we can shut our eyes at this time to the necessity of defining the word "income" in view of the manner in which the income tax law has been operating in the United States, and for fear that Delegate Green has tried to condense in a few words the thought of the convention I would like to read a substitute for his, and see if it meets his requirements, and if it does not in some way answer the questions that have been asked. I want to say in advance that I have no pride of words, and will be glad to change it—but what I want to distinguish is profit, as such, coming from any gain in business as distinguished from advance in value.

Section 13. Income for the purpose of this article is defined to be the product or return received as the result of a personal effort or the investment of capital either separately or combined, or the profits arising from the prosecution of any business, profession, calling, occupation or adventure, but shall not include the advancement in value of any capital, fund, property or investment.

Mr. DAVIS (Cook). In other words, I am trying to make the distinction between turn over, when a man buys or gets something for one price and sells it for another, that is a profit, but the mere holding of it for a certain length of time, which brings with it an enhancement in value, shall not be considered a profit or income in the sense in which a tax shall be paid on it.

CHAIRMAN WHITMAN You have heard the substitute, gentlemen; what is your pleasure.

Mr. REVELL (Cook). There is nothing in the Federal income law which taxes enhancement in value. It has got to come to a sale. Until it is sold and a profit derived there are no taxes paid upon the transaction.

Mr. GREEN (Champaign). Suppose it is exchanged?

Mr. SUTHERLAND (Cook). In asking this question, Mr. Chairman, I would like to make it very clear I do not ask it in any sense to be disagreeable or invidious; I have the highest regard for the efforts the gentleman is making to put the best possible language in the provision in the Constitution, for the welfare of the people of the whole State. I would like to ask whether he thinks it beyond any possibility that he has left out any word or consideration or any suggestion that ought to go into this provision that will stand in the Constitution for a number of years?

Mr. DAVIS (Cook). Have I left out any word?

Mr. SUTHERLAND (Cook). Do you think you have covered the whole thing?

Mr. DAVIS (Cook). I did the best I knew how, although I admit it might not be perfect.

Mr. SUTHERLAND (Cook). The reason I asked the question is because it has to stand for a long time. The result would be that we might think of something tomorrow that we do not think of tonight, and it would be better to leave the thing in the hands of the General Assembly for after-

thoughts, which may possibly be better than thoughts that are premature, and before their proper time. I prefer this motion to the original motion; I think they are both in order.

Mr. GREEN (Champaign). Well, this ought to point out affirmatively what is contained there; my own idea was that we could point out by a simple statement what was excluded from the terms, in other words, what seemed to be a mere advance in value.

Mr. DUNLAP (Champaign). May I say just a word on this. I have listened with a good deal of interest to the discussion of the question. The question in my mind is whether the investment we will say of ten thousand dollars in a new territory, unoccupied town lots for example, in a city or farms, in a new country, or whether the investment of that ten thousand dollars in active business in that city or in that country is to be penalized or exempted from taxations. If there is anything to be exempted, if there is any favoritism to be shown it seems to me it should be shown to the investor that is in active business and not in the investment of capital that is expected to enhance in value and make a profit for the owners. It is just as much income and profit for the man to invest in what might be called raw material and wait for the profit as it would be to invest in active business where his business is perhaps to the advantage of the community where his investment is made.

Many years ago there was an investment made in Illinois, where Illinois lands were not occupied for the purpose of production and the non-resident land owners held title to the property.

Mr. GREEN (Champaign). Would it not pay the ad valorem tax all the while?

Mr. DUNLAP (Champaign). Yes, but at a very much lower rate of interest than improved property, and I am in sympathy myself with the idea that an investment in non-productive property, in a town lot, for example, or a farm that is not used or cultivated—that land should pay as much tax as any other lot or tract of land or similar value, from a productive standpoint. So I cannot see that we are to exempt in this case the advance in value, while we are exempting a profit there that should, if it were invested in some active business, have brought in due course of that business a revenue to the State; and I suppose we are looking at this from the standpoint of the State.

Now, I would like to ask about something that is not entirely clear in my mind, and that is what you call the advance in value. Would it be from the taxpaying time of the previous year to the taxpaying time of the next year, or would it be an investment that had been made a number of years previous, and the advance accruing from that investment? Where would you start the matter of taxation? If land is worth as a matter of assessment \$100 per acre, say, at taxpaying time, assessed at its full value, and it sells for \$150 an acre during the next year, it would be, in my opinion, \$50 profit to the investor. But if it went back to a time when he paid \$25 an acre for that land, then would he be chargeable for the increase from the \$25 to the \$150? Of course, that may have no particular pertinency to the principle involved, but I am wondering how far back you would go to ascertain the profit.

Mr. GREEN (Champaign). Do you realize that within a mile of your home, farm land which was bought in 1913 or prior to that time for around \$200 an acre was contracted to be sold for \$500 per acre in 1919, and the sale was cancelled because the parties could not afford to pay the income tax?

Mr. DUNLAP (Champaign). I do not think you could buy it for \$200 in 1913.

Mr. DAVIS (Cook). This is not a new thought with some of us. We all agree that the Federal Income Tax Law is not working out very well, primarily because of the lack of a proper definition of the word "income." Take this example: A man buys a raw piece of land for a small price. He works on it, he develops it, he tills the soil, and he produces a crop and

pays an income on what he has produced from the crop, and all that. As you know, you cannot separate his personal labor and the other elements which have made that farm more valuable than it was when he bought it. Two years after that the farm, because of the work he has put into it, and the manner in which he has treated it, is worth \$150 or \$200 per acre, and he sells it. Shall he account to the State of Illinois for the difference between \$80 per acre, let us say, and \$150, as profit? Now, if you are willing that he should, make a definition accordingly. But I ask you not to shut your eyes and let it go at that. We want to know what is meant when we use the word "income." Let us answer this question first: Do we know what it is? If we do, let us put it into words.

Now, do you want that farmer to pay to the State of Illinois on the \$70 he has made as the difference between the price he paid for it and the price for which he sold it, bearing in mind that he was the one who was responsible, by his efforts, to some extent—although market conditions might have had something to do with it—for the enhancement in the value of the farm?

Mr. DUNLAP (Champaign). I would say, so far as that is concerned, my own idea is that we should not go back to the time when he bought this, but take the value of the land at the time it was assessed at the last previous assessing time. If it was assessed at \$80 and he sold it the next year for \$150, I think he should pay on the difference in price.

(Substitute lost; amendment lost; section lost.)

Mr. JOHNSON (Bureau). In view of the fact that the cities of Illinois seem to intend to engage in the business of operating public utilities, and investing millions of dollars in the business, it seems to me that section 3 of the revenue act, which has already been adopted by this committee, should be amended. Section 3 has to do with exemptions, and therefore, I move you that we reconsider the action on section 3, with a view of amending it so as to reach the question I desire to have brought before the committee.

Mr. HULL (Cook). On this matter of reconsideration, the original article is simply permissible. It does not require that the property of a municipality shall be exempted. Your proposal would practically leave no discretion.

Mr. JOHNSON (Bureau). Leave it precisely as it is with reference to "may."

Mr. HULL (Cook). You except the public utility property of a municipality. You say they must tax that; in effect that is practically what you say. If you wanted to leave it so that the legislature might or might not tax public utility property owned and operated by a municipality, there would be some justification for your demand; but you are going to make it impossible to exempt the property of a municipality owned and operated by a municipality.

Mr. JOHNSON (Bureau). Yes, sir, for the very obvious reason that the city is now engaged in business.

Mr. HULL (Cook). But you are providing an inflexible system. That is a subject which you may properly leave to legislative action to adjust from time to time as the situation may make it wise to adjust it; but you are making it impossible to exempt that property from taxation, and I believe that would be a mistake. For that reason I am opposed to a reconsideration of our action in this regard.

(Motion lost.)

Mr. HULL (Cook). I now move that the committee of the whole recommend to the convention the adoption of all these articles, with the exception of section 2, which was recommitted to the revenue committee.

CHAIRMAN WHITMAN. Is it not sufficient to rise and report progress?

Mr. HULL (Cook). Then I move that we rise and report progress. I withdraw the other motion.

(Motion carried and President Woodward assumed the chair.)

Mr. WHITMAN (Boone). The Committee of the Whole, having under consideration the report of the revenue committee, reports progress and asks leave to sit again.

(The report was adopted.)

PRESIDENT WOODWARD. There is nothing further on the general order, then, pertaining to the report of that committee?

Mr. WHITMAN (Boone). No, sir.

PRESIDENT WOODWARD. Under the rule adopted by the convention a few days ago the next thing in order under the general order of the day is the hearing in Committee of the Whole of the report of the Committee on Initiative and Referendum.

Mr. LATCHFORD (Cook). I am in receipt of a telegram signed by seven members of this convention, asking a postponement of the initiative and referendum hearing until next week. I now make that request, gentlemen, but it is a personal request from your humble servant, who has been in attendance at every session of this convention since the 6th day of last January. I make it as a personal request to you, and I ask that you kindly accede to my wishes. I so move.

Mr. HAMILL (Cook). From whom is the telegram, and where?

Mr. LATCHFORD (Cook). I am not going to discuss the telegram or state from whom it came. I am not speaking for the men who sent the telegram. I have an object in asking that his postponement take place until next week. It is a request from your humble servant, and the motion is that this initiative and referendum matter lie over until Monday afternoon of next week.

PRESIDENT WOODWARD. To be set for hearing at that time?

Mr. LATCHFORD (Cook). Yes, sir.

Mr. TRAUTMANN (St. Clair). I was a member of the subcommittee on rules which drafted this report fixing the order of procedure as follows: First, the report of the Committee on Revenue; next, Initiative and Referendum; next, Judiciary, and next, Chicago and Cook County. When we discussed the matter before making our report to the Committee on Rules, we put it in this order because the Committee on Judiciary had not reported, and the Committee on Chicago and Cook County had not reported, and has not yet reported. That is the reason we put Initiative and Referendum second. Personally, I am of the opinion that this report should be considered last by this convention, but we are not in a position to recommend that, because it was the only other report in the hands of the convention except the revenue matter. We did not know when the Committee on Judiciary would report, but since its report is in and ready to be considered, in view of the request made, it seems to me, and it is my personal view, that his motion should prevail, and that we take up the report of the judiciary committee next.

Mr. HAMILL (Cook). I am in entire sympathy with the request, but I do not approve of the motion in its present form. He desires to have the matter set for a particular time. That would disturb the calendar. I move as a substitute that consideration of the report of the Committee on Initiative and Referendum be postponed, to be taken up after the conclusion of the hearing upon the judiciary report.

Mr. LATCHFORD (Cook). I will accept that.

Mr. KERRICK (McLean). I do not want to be in opposition, particularly, but my colleague, not feeling very well, and feeling that his presence would not be necessary during consideration of the report of the Committee on Initiative and Referendum, went home temporarily today. He is, however, a member of the judiciary committee, and I understand he is quite anxious to be present while that report is under consideration; and that may be the case with others. I do not know how many may be in that situation. We have an order of business here, and the matter would come up in its regular order, and he thought it was not one at which his

attendance would be required; and I say, because I think it is due him to say so, he will be disappointed if the report of the Committee on Judiciary is passed upon while he is not here.

Mr. O'BRIEN (Cook). In view of the fact that a number of the advocates of this proposition cannot be present here, it would be no more than fair to hesitate about taking this matter up. We ought to have a full and free debate on this question, which is a very important one, and I think it is well to delay action on it, so that there will be no accusation of gag rule or unfair play. I do not think there would be anybody seriously hurt if the matter were delayed for another week, or any time the convention sees fit.

Mr. GORMAN (Cook). Do I understand the delegate from McLean to say that his colleague was a member of the Committee on the Judicial Department?

PRESIDENT WOODWARD. The chair so understood.

Mr. GORMAN (Cook). I did not understand that he is.

Mr. DEYOUNG (Cook). Governor Fifer is not a member of the Committee on Judicial Department.

Mr. HAMILL (Cook). My motion is to preserve the order of the calendar. We cannot set down any particular matter for a given time without interrupting matters that are on hearing. If the judicial hearing should conclude before the return of the patriots interested in the Initiative and Referendum, however, we can again postpone the hearing.

Mr. MILLS (Macon). I would be glad to accommodate my friend Latchford. I also have been in every session of this assembly since its organization. But these seven who are away—are they away on business connected with this convention? Are they away on committee work connected with our work here? If so, I am in favor of postponing it. Otherwise, I am in favor of going ahead with the Initiative and Referendum.

(Delegate Hamil's motion prevailed.)

PRESIDENT WOODWARD. The initiative and referendum will follow the hearing upon report of the Committee on Judicial Department. The convention will resolve itself into a Committee of the Whole for the purpose of considering the report of the Committee on Judicial Department. The chair designates Delegate DeYoung to act as chairman of the Committee of the Whole.

Mr. DEYOUNG (Cook). With the permission of the chair and the house, I will ask Judge Cutting to preside.

PRESIDENT WOODWARD. The committee chairman requests that Judge Cutting preside. Accordingly he is designated to act as chairman of the Committee of the Whole.

(The convention then resolved itself into a Committee of the Whole, with Delegate Cutting of Cook in the chair.)

CHAIRMAN CUTTING. The committee will be in order. The first order of business will be the reading of the committee's report.

(Report read.)

Mr. DEYOUNG (Cook). If the Committee of the Whole desires, I am perfectly willing to proceed to a statement of what this report contains. I do not mean to trespass upon the patience of this committee, nor to take up time unduly, but I take it it is generally admitted that the organization of a judicial system involves the preparation of a report perhaps more interwoven and interrelated, the provisions of which are perhaps more interdependent than those of any other report which the committee has yet had occasion to consider. If the committee is of that view and desires it, I may, as I say, explain briefly some of the essential provisions of this report.

The criticism has been made, and I think justly made in the past, that there was in the judicial system of our State a lack of unity and an overlapping of jurisdiction between the several courts, which was altogether unnecessary; and sometimes a lack of supervision by the court of last resort over the inferior courts of the State. I need not dwell, of course, upon the history of our judicial system under the several constitutions,

including the present one, where we developed from very simple provisions, consisting merely of eight sections in the first Constitution, toward a more intricate one in the Constitution of 1848, and still more to detail under the present Constitution.

Now, first, the legislative branch of the State government had a very wide and ample power. The Supreme Court was merely creative. The Constitution of the inferior courts was left altogether to the legislative will and legislative creation, as well as the appointment of all of the judges of that system. Under the second Constitution there was taken away from the legislative branch of the government the appointment of the members of the judiciary, and still there was a lack of unity such as students of the subject have found, as well as members of the bench and bar alike, to be necessary for an efficient system of judicial administration.

In this plan, without adverting longer to what has preceded, we constitute first of all the Supreme Court. May I say in passing that the only difference of opinion between the members of the committee is as to the number of justices of the Supreme Court, and upon that question we have a minority report, which, by agreement between the several members of the committee on judicial department, if the members of the Committee of the Whole do not dissent, we will receive consideration of until all the other sections of this report have been considered. In other words, the only difference of opinion among the members of the committee on judicial department is whether the court of last resort of this State should consist of seven or nine justices. The report which you have heard here provides for nine; the minority report for seven. We will pass that subject, then, so that it may be considered, if the committee agrees, after all the other sections have been fully considered.

You will observe in the second section of this report, which is a very important section, that the power to prescribe rules of pleading, practice and procedure shall be vested in the courts, provided that the General Assembly may abrogate a rule prescribed by any court. The rule making power is essentially a power of the courts. It should there be based. In the interest, however, of a more conservative attitude, a check has been lodged in the General Assembly. Some of the members thought that it would be a provision which might never be invoked, but still in an extreme case it might be a salutary provision. These states that have made progress in judicial administration have with the passing of the years all lodged a wider power in the courts, so far as rule making is concerned.

Now, I do not mean to invoke the history of judicial administration in England altogether, but you will remember reading, at least, that in the seventies, when the parliament had tackled the matter of practice and procedure year in and year out, from one generation to another, it finally gave it up as a hopeless task, because the courts of England were something like four years behind in the disposition of cases in their courts; and the Supreme Judicature court of that country was given a much broader power in rule making than is proposed by this report. This is a very conservative provision, it seems to me, because you still retain a legislative check which is not at all permitted there. There are states in this country even. Turn to Colorado, and the whole section on practice is a single provision, committing it absolutely without any check to the courts altogether. There are other states which have made great progress in that respect. We have not begun to go to the extent in this report that obtains in other places.

The original jurisdiction of the Supreme Court by this report is extended to include cases in quo warrant and prohibition. There may be instances where some important question should be determined speedily by the court of last resort, so that there may not be the delay of a trial in a nisi prius court and then an appeal later on to the Supreme Court; so that, by I think practically all the reports or all the proposals that were introduced in the convention and referred to our committee, we found these

two additional heads of original jurisdiction were committed to the Supreme Court. Otherwise there is no departure.

You will also observe in section 2 that we have sought in a fashion at least to overcome the objection which has been urged so often, of the inconsistency of decisions in our several appellate courts. We have all encountered the actual experience. Those of us who are members of the bar have encountered the actual experience of having the appellate court in one district cited in direct conflict with the authority of the appellate court in another district. We seek here at least to permit a review by the court of last resort in cases in which the appellate courts might have final jurisdiction, so that there may be some uniformity of decision, and something in the way of finality of authority.

You will observe also in the same section that the rule making power based in the Supreme Court is supreme, of course, over the other courts, but the other courts, the lower courts of the State, may make rules not inconsistent with those prescribed by the Supreme Court.

In the fourth section we require the sessions of the Supreme Court to be held at the seat of government, namely, the City of Springfield, and that the sessions shall be at least four per annum. Of course, there are now five sessions. The Supreme Court may continue that, or may increase the number if it will. I shall pass over sections 5, 6 and 7, concerning which the majority report has also been supplemented by a minority report.

Section 8, it seems to us, is a highly essential provision. There have been times even in recent history where the Supreme Court's membership was reduced either by resignation on account of ill health, or by death, and the usual requirement of a special election, with all of its delays, would put the court very much behind in its work. The Supreme Court of Illinois, I believe, stands in the front rank of all of the courts of last resort in the Union in being prompt in the dispatch of its business. With an absolutely fixed membership, as was true under the Constitution of 1848, and under the present Constitution—differing from that of 1818—you can readily see, if there is no elasticity, or no permission given to add temporarily while there may be this vacancy, if it be temporary to bring up a judge from the Appellate Court—you can readily see that their work must be hurried, or it will involve delays in the dispatch of judicial business. Hence it is that we have provided in the eighth section that where the court will certify, or a majority of the judges will certify to the Governor that by reason of death, resignation or some disability of a member of the Supreme bench, for every such vacancy a judge of the Appellate Court may temporarily be assigned to the Supreme Court during the period of such vacancy, to perform the duties of an Associate Justice of that high court; that after the vacancy is filled, he returns again automatically to the court from which he came. This is a provision concerning which several judges of the Supreme Court talked to me even before the convention ever sat; and it seems to me it is a provision that is vitally necessary.

Under former constitutions, as well as under most of the constitutions of the states of the Union, as I understand it—and certainly in the case of the Federal Courts—the clerk is appointed by the court. We have had a situation here in Illinois of candidates for the clerkship of the Supreme Court not less than half a dozen in number, when judges of the Supreme Court have told me that they were unacquainted with all of the candidates at the primary election; and it is not possible, it is not even given to the members of the bar, and certainly not to the average layman in the State, to pass satisfactorily upon the qualifications, character or merit of a candidate who must necessarily hold to some degree a position of confidence, mainly, that of clerk to the court of last resort.

The Appellate Courts are created in the same number as now exists, namely, four; one for each district in the State. The appellate districts will remain as they are now constituted, until changed by law. They still sit in the same cities that they now do. There is no change in that respect. The number of branches which an appellate court may require will be de-

terminated, it seems to us, by the proper authorities, by the Supreme Court of the State. That is, one or more branches may be added to the appellate court. We now have two in Cook County. We have nine judges who perform appellate court duty in that district, which, of course, is the same as Cook County. So that you can readily see that if the business of an appellate court in one of the other districts has grown to such a volume that it is becoming difficult to handle, it will be a very simple matter to add a branch to it, so that the business of such Appellate Court may be promptly and properly dispatched.

There has been very much criticism in the past, and I am sure our committee has heard very much of it, of withdrawing judges from the Circuit Courts of the State and assigning them to the Appellate Courts. Often the criticism is urged, and justly founded, as we believe, that it sometimes withdraws capable, and perhaps the best judges from the circuits which have a great volume of business. If you take one judge out of three from a district which has a considerable volume of business, necessarily the Circuit Court in the dispatch of the business of that circuit must suffer. Hence we have avoided in this report the assigning of judges from the Circuit Court to the Appellate Court altogether, and we provide in this report for the appointment, if you will, by the Supreme Court of the State of judges of the several Appellate Courts of Illinois. The section of these judges will not be limited to members of the bench at all. The Supreme Court may make its selection from members of the bar as well as the bench, and you will have constituted an independent appellate court that does not deplete the number of circuit judges in the State. It is a court altogether independent of the Circuit Court, and you will also avoid the embarrassment which has not obtained so much in Cook County—or at all, if you will—but which does, I understand, often prove to be the case in the districts outside of Cook County, where a judge of the Appellate Court in part performs duty upon the circuit bench as well as in the Appellate Court, where sometimes litigants have the fear that the appellate court judge who is the one who tried the case below, or who may be a member of the circuit bench, they may fear that sometimes, although he does not participate in the case, has influence may have something to do with the decision. We believe that a district appellate court was the proper thing to have.

I shall not dwell at length upon section 11 which determines the jurisdiction of the appellate courts. It provides first of all that appeals and writs of error may be prosecuted in all cases. That is a general provision. Then we define what cases must necessarily go to the Supreme Court. We do not say in this, in the matter of criminal cases, all criminal cases, because then in a mere charge of assault and battery, one charged with that offense might not only have an appeal to the appellate court, but might go to the Supreme Court of the State. Nor have we said in all cases above the grade of misdemeanor, because some of those may not necessarily involve punishment by imprisonment in the penitentiary. There is, however, an omission in section 11 that was discovered after the report went to print. You will observe that cases in which the punishment by the judgment of the court is imprisonment in the penitentiary may be prosecuted in the Supreme Court; that is, appeals or writs of error in those cases. There is a fatal omission there, because certainly if a man is sentenced to death, he ought to have the right to have the question of his guilt determined by the highest court in the State, and at the proper time; and at the proper time Judge Dupuy will offer an amendment to cure that defect.

The other original jurisdiction of the Supreme Court does not depart from the present provision of the Constitution, that in all cases in which a franchise, a freehold, or the validity of a statute is involved, in those cases the litigant has the right of appeal absolutely to the Supreme Court, and does not have to ask for admission. The Supreme Court is then given the right outside of those cases to determine the appellate jurisdiction of the appellate courts. Unless it determines this by general order or rule, all appeals will go to the Supreme Court. And the Supreme Court, it is further

provided, may by general rule prescribe the final jurisdiction of appellate courts, unless otherwise prescribed by law. We have not sought to give any where the absolute or final control over matters of jurisdiction or venue to the Supreme Court. We allow the legislature to take a hand in that matter as it has in the past, so that the voice of everybody in the State, at least through his representative, may be heard. In other cases in which the punishment may not necessarily be death or imprisonment in the penitentiary, there may be cases of importance which ought to be reviewed by the court of last resort, and hence we have provided that those cases may reach the Supreme Court on certiorari. The terms of the judges of the appellate court are the same as now, or the same as the term of a judge of the circuit court, namely, six years; and the provision here is that on the 1st day of January, 1922, that will be after the next election of circuit court judges, and every six years thereafter, these judges shall be appointed, who shall hold their term of office for the period of six years, and who may for good cause be removed by the Supreme Court.

The judges of the appellate court for each district, including the judges of the branch or branches, we provide in section 13 may likewise, as in the case of the Supreme Court, appoint the clerk of the Appellate Court. We turn now to trial courts, courts of general original jurisdiction, and circuit courts of the State outside of the County of Cook.

They are separated because we have given to the Circuit Court of Cook County a wider jurisdiction by reason of the consolidation of the courts there, which I will reach very quickly. The jurisdiction of the circuit courts of the State is not changed from what it is now. It is a court of original, superior, general jurisdiction.

"All causes at law and in equity and such other jurisdiction, original and appellate, as is or may be provided by law" is the provision today. Therefore, there is no change in that respect.

The sixteenth section continues the circuits as now constituted, 17 in number, outside of the county of Cook, until they are changed by law. We have now circuits in this State which have a population, according to the census of 1910, of from 136,000 in the Freeport-Galena circuit, which is the minimum number, and which is the only one under 150,000, to upwards of 310,000 in the circuits in which St. Clair county is located; so that you can readily see that there is a great disparity in the circuits of the State as now constituted. Those changes, of course, can be made, but so that the boundaries of the circuits may not be changed by mere whim, we provide, as provided under the present Constitution, that the boundaries of the circuits shall only be changed at the session of the General Assembly preceding the election for circuit court judges.

Circuit judges are all elected at a given time throughout the State, so that that provision is definite, and gives no difficulty, as did the provision in the present Constitution, which provided that supreme judicial districts for the election of judges could only be changed at the election preceding the election of judges therein, when, as a matter of fact, we have three different times under the Constitution when judges of the Supreme Court could be elected—five at a given time, and one each at two other times. So that it was impossible consistently to make these changes, and it was only done with violations of the provisions of the present Constitution on the subject. These circuits, as I said, may be changed only preceding the election for circuit judges, or may be changed at the session of the General Assembly next succeeding the adoption of this Constitution, so that any great disparity in population may be corrected, and if there is one circuit that is underworked, as against another that is overworked, the change can easily be made at the session of the General Assembly following the adoption of this Constitution.

We continue the limitations that are to be observed in changing these circuits, mainly, that they shall be formed of contiguous counties in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business territory and population. We have changed

the number here. We have said that these circuits shall not exceed in number one for every 150,000 inhabitants in the State, so that you can readily see the number of circuits can be increased from the number of 17, which now obtains. Of course, the creation of a new district, or the change in boundaries of any circuit court district shall not affect the tenure in office of any judge. That is a provision which is not only there for the protection of the incumbent, but for the dignity and security of the court as well. And we have this further provision, which is slightly changed from that in the existing Constitution: "Whenever the business of the Circuit Court of any one or two or more contiguous counties, containing a population exceeding 100,000, shall occupy nine months of the year, the General Assembly may make of such county or counties a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed." The printed word is "preserved," but the word "observed" should be substituted.

So that you can readily see that there is ample provision here, ample elasticity for the growth and development of the State. The minimum requirement of 150,000 population for every three judges is certainly ample. The fact of the matter is, the average is now very much higher, except for the one isolated case of the Freeport circuit, where the population in 1910 was 136,000; but in every other circuit the number of inhabitants within the circuit is substantially above the minimum requirements of this report.

The seventeenth section prescribes the term of office for six years, just as it is now, and all of the judges of the Circuit Court will continue to hold their offices from June until November, in order to bring this report and the election of these judges into harmony with the provisions of the suffrage article.

The 18th section is one in which it is sought to meet criticism urged by members of the bar particularly, and also by many litigants in the State. "The Circuit Court in each county shall always be open for the transaction of business, provided the General Assembly may prescribe terms not less than four annually for the convening of the Circuit Court in any county for the disposition of criminal and common law causes. In all chancery suits, and unless otherwise provided by law for any county or counties, in criminal and common law causes, the first Monday of each month shall be the return day for process."

You can readily see the importance of that. Members of the bar who sometimes are held for six months or nearly so in order to take a default judgment will see the advantage of avoiding that delay. You will find in the Constitution of the Circuit Courts that we have consolidated the city courts of the State into the Circuit Courts.

It has been urged in certain instances that perhaps this would work considerable inconvenience in certain counties of the State where there was a larger city in the county than the county seat itself. There are those cases. We have sought, at least in a measure, if not altogether, to cover that difficulty, or avoid it or remedy it in the nineteenth section, in which we provide that the judge of any circuit, or a majority of the judges, may provide for the holding of the Circuit Court in any city in the circuit or county which has a population of at least 5,000. It seems to me that this is clearly an advantage over the present situation.

Let me call your attention to what the situation now is under the power given to the General Assembly by the present Constitution to create courts in and for cities and incorporated towns. That is the only latitude that the General Assembly had or has under the present Constitution. The other courts are absolutely fixed and determined, but as to the city courts the legislature did have some latitude. And what has been the result? So long as the cities were compelled to pay the salaries of the judges of the city courts, the number was extremely few. In fact, under the present Constitution the number of city courts that have been established was so inconsiderable as to be negligible. The city courts of Aurora, Elgin, Alton, and some

of the others, all existed, as I am informed, before the adoption of the present Constitution. But when the legislature a few years since provided that the salaries of city judges should be paid out of the State treasury, we find the situation that the city courts became very popular. So long as the cities themselves were compelled to pay these salaries, they were not so highly necessary as they were found to be after the State of Illinois paid their salaries. Hence, from a few they grew in a very sort time to 27 in number.

Let me just call attention to what these city courts cost the State of Illinois. The population of all of the 27 cities in which the city courts, prior to the present Constitution as well as since, of ancient, mediaeval or modern origin were established was 307,000, less than the population of the circuit in which the City of East St. Louis is located. Three hundred and seven thousand was the entire population of these 27 cities, and you paid in salaries \$56,000 out of the State treasury for those courts, that did a very small volume of business. The judges of the Circuit Court of that circuit—not alone of that county, but of that entire circuit—receive now only \$15,000 a year. Yet this State has paid nearly four times that much for the conduct of judicial business in these several cities, just because the State was so generous as to pay their salaries.

Now, why the necessity? I know there may be an isolated case where a city court may be held to be highly convenient, but we cannot certainly in Constitution making, any more than we can in ordinary legislation, provide for particular instances altogether. We have to take the scheme in the large. We have to take a large survey, a broad view of it, and it seems to me that if there is any inconvenience in that respect, it will be remedied altogether by the nineteenth section, which provides for the holding of the circuit court in those cities that have a minimum population of 5,000. Certainly we all know that the circuit court of the State inspires much more confidence than the average city court. I do not mean to reflect. I am acquainted with some of the city judges of this State, and they are men of high character—at least the great majority of them. But it is a well recognized fact that a court that is elected or appointed from a larger area, usually inspires more confidence and dignity in the justice of its judgment, in the accuracy of its decisions, than do courts for very small areas; and if there were no other consideration, it seems to me the fact that we have abolished the city courts is certainly a move in the right direction. The county courts of the State, as now constituted, apart from some changes in the jurisdiction, are continued. We do not change the date of the election of the judges of the county courts, but we extend the term from four to six years.

The county court of each county is continued, and with the county court we consolidate the probate court. There are only a few probate courts in the State. We create a court, we believe, of a little wider jurisdiction than before, and we give back to the county court the jurisdiction which has been exercised by the probate courts that have been created in the several counties where they exist. The jurisdiction of the county court is re-stated, and we have sought to remedy one or two of the defects, at least, which we have found in the past with reference to the jurisdiction of a probate court. You are all familiar—at least, the members of the bar are—with the authority and jurisdiction of a probate court to sell real estate for the debts of the intestate or testate, as the case may be. But when you proceed to invoke the same jurisdiction for the purpose of paying money to legatees, bequeathed by a will, you find the probate court not only did not have that jurisdiction, but it was not competent for the legislature to confer that jurisdiction upon the probate court. We have a specifically provided co-ordinate jurisdiction with the circuit court in the matter of testamentary trusts, as well as giving to the county court the power, authority and jurisdiction to sell real estate for the payment of legacies as well as for the

payment of debts. Otherwise there is no radical departure, except that the jurisdiction of the county court in common law cases *ex contractu* is raised to two thousand dollars, exclusive of interest and costs.

Criminal cases below the grade of felony, exclusive jurisdiction of all appeals from justices of the peace, and the same general provision which you have in the present Constitution—such other jurisdiction as may be provided by general law. The county court is essentially a court that is given statutory jurisdiction. With the progress of the years there have been other remedies, other actions, statutory in character usually, created by the legislature. These have usually been conferred, or at least in large measure, upon the county court; and that same court should continue to be the residuary, as we believe, of that jurisdiction.

I anticipated section 22 in a measure when I said that the term of the judges of the county court was extended to the period of six years. They are elected, as you now know, at the general election in the even numbered years, the alternate numbered years. The last was in 1918, and the next will be in 1922. There is no change there, there is no lengthening of their terms, so that in that respect the only change we have will be that their term will be just half again longer than it is now.

In section 23 we provide that county courts shall be open for the transaction of business, and that the first Monday of each month shall be the return day for process or appeal to said courts. There is a subject that gave the committee a good deal of concern, as well as difficulty, and that is the question of justices of the peace.

I do not know whether you have been afflicted with justices of the peace in the State outside of Cook County as we have, at least, in certain portions of Cook County. So long as the fee system obtained, there could be no cure for some of the evils of which many people complained, especially among the foreign population in some of our industrial centers, because I take it it has come to the notice of all of us, especially those of us who practice law in these industrial centers, that justices and constables alike have been guilty of many gross abuses of the power and authority conferred upon them, and that they very often have been guilty of malfeasance and oppression. That is largely because of the multiplication, if you will, of actions, especially those criminal in their nature, involving charges and counter charges, all to the opportunity of the justice, or often, at least, and with little concern for the welfare of the community or the administration of the criminal law.

So in section 24 we have provided that justices of the peace and constables shall be elected or appointed in and for such districts outside of the county of Cook, and such justices shall have such uniform jurisdiction as may be provided by law. The districts for which they may be elected or appointed, in the opinion of the General Assembly, are to be determined by that body. They shall receive the salaries fixed by the boards of supervisors or county commissioners of the respective counties, which salaries shall be paid by the districts in which they are severally elected or appointed. If it shall be the wisdom of the General Assembly to provide for the appointment of justices or the election of justices and constables in towns, as in the past, the obligation is imposed upon the township of paying the salary of those justices and constables; and, of course, as a correlative the fees and emoluments collected by those officers must be turned into the treasury of the district in which they are elected or appointed, which pays their salaries.

In that connection I want to draw attention to the general provision, section 45, because this provision is applicable alike to justices and constables in and outside of Cook County. There are many localities in the State—at least, so far as the committee was informed—that wished to dispense with justices and constables altogether. They are now absolutely fixed officers under the present Constitution. The legislature cannot abolish them. They are imbedded there just as securely as your Supreme Court. So we provide in section 46 that the electors of any district, whatever that

district may be, created by legislative fiat, may abolish the office of justice and constable, or either of them. You may see fit to retain the office of justice. You may think the constable is quite unnecessary, and you may abolish that office altogether. You have that right absolutely, if you so see fit. So that we do not retain justices and constables in the present article altogether. You may have them if you wish, and likewise you may dispense with them if that is your desire. We provide, as in the present Constitution, for the election of State's Attorneys every fourth year in each county of the State.

Now, that covers the situation outside of the general provisions, so far as the courts outside of Cook County are concerned.

Mr. HAMILL (Cook). I move that the committee now arise and report progress.

Mr. DUPUY (Cook). I move as a substitute that we recess until 8 o'clock this evening.

(Substitute lost.)

(Motion carried, and President Woodward assumed the chair.)

Mr. CUTTING (Cook). The Committee of the Whole desires to report progress and asks leave to sit again.

(Report adopted.)

Mr. SUTHERLAND (Cook). I move that we now take a recess until 8 o'clock, because I think if we do not hold some night sessions we will not get through with our work until a year from now.

Mr. GREEN (Champaign). I move as a substitute that this convention now adjourn until 9 o'clock tomorrow morning.

(The substitute prevailed, and at 6:30 P. M. the convention stood adjourned until 9 A. M., Thursday, November 18, 1920.)

THURSDAY, NOVEMBER 18, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, November 16th, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of November 16th will stand approved.

Reports of committees. Motions and resolutions. Unfinished business. General orders of the day. The convention will now resolve itself into the Committee of the Whole for the purpose of further considering the report of the committee on judicial department. The chair designates Delegate Cutting to act as chairman of the committee.

(Whereupon the convention resolved itself into a Committee of the Whole, with Delegate Cutting of Cook in the chair.)

CHAIRMAN CUTTING. The committee will be in order. The chair will recognize Delegate DeYoung, who was speaking at the time the committee arose last night.

Mr. DEYOUNG (Cook). Mr. Chairman, and gentlemen of the committee: At the conclusion of the session yesterday we had very briefly reviewed the report of the committee so far as the courts outside of Cook county were concerned. Perhaps one or two matters upon which some emphasis might be laid by some with reference to the system outside of Cook county might be supplemented before I proceed to the consideration or review of the courts of Cook county.

Very much complaint was heard by the Committee on Judicial Department with reference to the difficulties in certain circuits of the State outside of Cook county in making proper disposition of the judicial business in those several circuits, and the reasons assigned were not only the fact that judges of the Appellate Court were withdrawn from the circuit courts to perform the duties of an Appellate Court judge, but because also so many judges, circuit, city and county, from the State outside of Cook county, were brought to that county for service in those several courts, and it may not be amiss to direct your attention just briefly to what service was rendered by these outside judges in the County of Cook.

In the year 1919 the service of outside judges in the circuit court of Cook county alone amounted to 623 days. In the county court of that county to 635 days, and in the municipal court of Chicago 292 days. So that in these three courts alone you had upwards of 1600 days of service by judges from the country in the County of Cook, or more, really, than there are in the service of a circuit judge for a whole term. You can readily see that these facts would hamper somewhat the disposition of the business of the courts in the circuits, cities or counties from which these judges were withdrawn to serve temporarily in the County of Cook. We have sought to remedy that, first of all, as I said last evening, by constituting an Appellate Court entirely apart from the circuit court, and, secondly, by permitting the organization of circuits, since city courts are withdrawn under this proposal, where there is a minimum population of 150,000, so that the number of circuits in this State may be increased, and you have three judges for every circuit.

Then I might also, if I did not last night, call attention to the fact that in counties that are contiguous, having a population of not less than a hundred thousand, there may be constituted a separate circuit, which likewise will have three judges. So that it seems to the Committee on Judicial Department that there is ample provision made for any growth in population in the State outside the County of Cook in a scheme which is here proposed.

May I turn just briefly again to the county courts outside of the County of Cook, and that is the only portion of the State in which the county court, by that name, is continued. Its jurisdiction, as we observed, is enlarged. You will not be compelled, as in the past, if you seek to invoke the jurisdiction of a court with reference to a testamentary trust to proceed with your administration in the county or the probate court of the county, as the case may be, and then finally, to have a will construed, to be compelled to go to the circuit court, where it might be highly important to have that construction before final distribution in the settlement of the estate could be made. So that we have given that jurisdiction to the county courts, concurrent jurisdiction with the circuit court in the matters of testamentary trusts, as also in the matter of making sale of real estate to pay legacies.

Now, we believe that the county court will be a court of greater dignity, inspiring more confidence than in the past. First of all, the salaries of the judges of the county court, under this report, will be paid from the State treasury. The legislature will have the power, of course, to classify counties, to make the salaries of county judges in the certain counties where the volume of business may not be so great or so important less than it will in those counties where the volume of business is much greater. The lengthening of the term, as well as the increase in its jurisdiction and providing that all appeals from justices of the peace, which must necessarily be small and usually unimportant, shall be taken to the county court, thereby, as we believe, strengthening the circuit court, the court that does inspire confidence, the bulwark, after all, of our great system throughout the State, that may devote its attention to the more important things. We believe that that is a provision which is at once satisfactory as well as conducive to a better administration of justice when we consider the importance of the circuit courts.

Now, some criticism may, perhaps, be made because under this plan probate courts will cease to exist. There are now in the State only nine probate courts. That, of course, is under the limitation of a minimum population under the statute of 70,000, and a minimum population prescribed by the Constitution of 50,000. These nine probate courts have judges whose salaries range from \$2,200 in Madison county, to \$12,000 now in Cook county. You can readily see there is a great disparity in the salaries of these probate judges, but we have made provision in this report that in a county that has a population exceeding 75,000, they may have a second county judge, and we have a court, it seems to me, in that situation which is better, a single court with a single clerk, one place where your records may be found and where they may be consulted, probably resulting in a better system, to say nothing of the greater economy of a single clerk for the jurisdiction exercised by this consolidated court.

Let me turn now to the system proposed in the County of Cook. That county has constituted since 1870, and before that, for that matter, a single circuit. We have now two courts different in name, but of the same jurisdiction, the circuit court of Cook county and the superior court of that county. You will remember the provision in the present Constitution that provides a judge of the superior court shall have all the powers of a circuit judge, so that we have two courts with different names, but the jurisdiction of which is exactly alike. I fail to find a good reason in the debates of the Convention of 1869 and 1870, except perhaps the sentiment that attached to the name superior court, for their separate existence or continuation, and there seems to be no reason now why these courts should

be conducted separately, and the present report not only provides for consolidation of the circuit and superior courts of Cook county, but also includes what is a departure, some of you may think radical, from the scheme proposed in the State outside of Cook county. In other words, we not only consolidate the circuit and superior courts of Cook county, but we bring into that consolidation also the county and the probate courts of that county. So that you will observe the article which provides for the jurisdiction of the circuit court of Cook county has the exact language that we have for the provision with reference to the jurisdiction for the circuit courts outside of Cook county, and also include in it the jurisdiction of the county courts in the State outside of Cook county. We include both of them in the circuit court of Cook county.

There are now in these four courts proposed to be consolidated by this report 42 judges, 20 in the circuit court, 20 in the superior court, one probate judge and one county judge, so that provision is made that there shall be 42 judges in the consolidated court until the number shall be increased or decreased, an innovation, because under the present Constitution there is no affirmative provision for the decrease in the number of judges in that court. Perhaps the legislature is competent to do it, but we have an affirmative provision here that a reduction or a decrease in the number may be made. These judges shall be elected just as they are outside of Cook county for terms of six years. Our circuit judges, as yours, are elected at the same time, but the judges of our superior court are elected at various times. Our county and probate judges are elected for four year terms. The term of all of these judges is fixed under this report at six years, and we provide for their election at different times. Of course, the judges who are now circuit judges will in the future be elected at intervals of six years. We bring them into the annual election under that in odd years, so that they may be withdrawn from presidential contests and also from those off year contests which sometimes result in a result quite apart from the merits of a local election.

I don't know that there is anything to be added to the statements concerning the court, or the consolidation of those courts in the County of Cook until I get to the general provisions with reference to that court and the district court of Cook county.

Under the constitutional amendment of 1904 there was created by the legislature the municipal court of Chicago. That is a city court of inferior and limited jurisdiction. It is not a court of superior, general jurisdiction, but one whose jurisdiction is limited, extremely limited and limited by statute. It is a court, of course, whose territorial jurisdiction is confined to the city by which it was created. It is proposed by the committee to extend the municipal court of the City of Chicago to the County of Cook, and rename it the district court of Cook county, and to bring into the consolidation the criminal court of that county, so that the district court of Cook county will be the successor of the municipal court of Chicago and the criminal court of Cook county. Any one at all acquainted with the administration of criminal justice in that city knows the difficulties that now are inherent in the prosecution of many cases.

First of all, a prosecution may be instituted in the municipal court of Chicago. It is finally turned to the criminal court of Cook county after many delays, and it is for that reason primarily that it was thought by the committee that the prosecution of one charged with crime ought to be lodged in a single forum from its inception until final conviction, avoiding in a large measure the delays which now unnecessarily obtain in the prosecution of criminal cases in that county. That, of course, it seems to us is a very good reason why this consolidation should be effected.

The report provides for 30 judges. My attention was called to the fact that perhaps there are 31 judges in that court. I am not absolutely certain. If so, that can be easily changed. The judges of the municipal court of Chicago are elected substantially in equal numbers every second year, and they are elected in the even numbered year. The committee thought that it

was inadvisable to continue that, and as a result the term of the present incumbents of the municipal bench of Chicago has been extended for one year to bring those judges into the odd numbered years for their election or re-election.

The district court of Cook county is continued a court of limited jurisdiction as distinguished from the circuit court of Cook county, which is, of course, a court of general and superior jurisdiction. We provide the jurisdiction of the district court of Cook county to be of all cases of criminal or quasi-criminal nature arising in the County of Cook, or which may be tried before that court, pursuant to law, and all bonds and recognizances and appeals in criminal and quasi-criminal cases shall be returnable and taken to said court. That is the language of the present Constitution with reference to the criminal court of Cook county. The district court shall also have full civil jurisdiction as follows:

In all actions founded on contract where the amount claimed does not exceed \$2,000, exclusive of interest and costs. There it is the same as the county court outside of Cook county. In all cases sounding in tort where the damages claimed do not exceed \$2,000. There it departs from and is a jurisdiction in addition to what your county courts will possess under this report.

And, third, exclusive jurisdiction of all appeals from justices of the peace. We provide likewise that those appeals shall be taken to the new district court, as in the portion of the State outside of Cook county to the county court. And, finally, all such statutory proceedings as may be conferred by general law.

Today, the jurisdiction of the municipal court by the construction of the statute is somewhat incongruous, for in a number of cases, contract cases, the jurisdiction seems to be unlimited, whereas in particular cases it is limited to \$1,000. In the one case it is extremely narrow jurisdiction, and in the other practically unlimited, and we have sought to bring some harmony into the scheme of jurisdiction by this section.

I have already referred to the number of judges, to their term, which will be six years.

The criminal court of Cook County necessarily is a court of the first importance. The administration of criminal justice in a very large center is one of the very important matters, a concern of primary importance in a very large city. As you know now, the judges of the criminal court of Cook County are taken from the circuit and Superior Courts. They are not elected as such directly. They are judges of the circuit or superior court, as the case may be, and ex-officio judges of the criminal court, and we have found in experience that judges of those two courts are always reluctant to serve on the criminal bench of Cook County. They prefer to stay on the civil side as a general rule. So it was thought by the committee that perhaps some inducement would have to be extended to judges to serve on the criminal bench, and it is provided that the Supreme Court shall make their selection from the judges of the district court, assigning them to the criminal bench, not less than five in number, and while serving in that court the salary of the district judges shall be the same as the salary of a circuit judge of Cook County. This, it seems to us, ought to bring the best members on that bench by the selection of the Supreme Court of judges to the criminal branch, and perhaps at least will maintain if not improve, the high standard of criminal justice which so many of us want.

Sessions of the district court of Cook County we provide shall be held in the City of Chicago, but there are in the County of Cook outside of the City of Chicago a number of municipalities that might require courts to sit there, so we make substantially the same provision with reference to sessions of the district court outside of the City of Chicago in other cities and villages having a population of not less than 5,000, where the court may determine. The quarters for the holding of these sessions, not only outside of Chicago but in Chicago, shall be provided by the municipality

where these sessions are held, without expense to the county or the State. In other words, if the City of Evanston, or the village of Oak Park, with a population of 40,000, may want to have a session of the district court. Maywood with a population above 5,000, or LaGrange or Chicago Heights, if you will, with a population of 20,000—Chicago Heights today has a city court, the only city court existing in Cook County. Of course, the incumbent of that court is very tenacious of the continued existence of it, but we do not believe that a judicial scheme should be marred at all by an isolated instance, which, I failed to say, consolidates the city court of Chicago Heights with the district court.

Now, the people of Chicago Heights may have sessions of the district court if that city will provide suitable quarters as these other municipalities may see fit to provide, and I might say also the same thing is true with reference to the sessions of the circuit court in other cities than the county seat, which have a population of not less than 5,000. The requirement is that the city shall provide suitable quarters. They must do that for the city courts, and they must go to a greater expense, because they pay, as I understand it, the salaries of the clerk and there are other incidental expenses, so that in any event the present scheme certainly will cost no more than will the system which obtains today.

There are certain provisions with reference to both courts in Cook County, the circuit and district courts, which the committee thought was best to combine under a separate heading in the interest of brevity, because as the article is it is altogether too long.

The Supreme Court, we provide, shall appoint a chief justice for each of said courts from the judges thereof. Experience has demonstrated that the selection of a chief justice by the justices of the court themselves rather makes the chief justice dependent, he does not have the authority, the independence as if he were selected from an outside authority. Witness the case of the Municipal Court of Chicago, for instance: The chief justice of that court is independent in a way, and whatever success may be attributed to the work of that court is at least in a large measure due to the fact that there is a chief justice whose power is derived from a source independent altogether from the support of his brethren on the bench.

So that the committee felt that the chief justice of each of these courts should be selected not by the judges themselves, but should be given some authority and independence apart from them. We believe that the Supreme Court of the State, which is interested primarily in the proper administration of justice, could make a proper selection of one of the judges of each of these courts to be the chief justice, who would be clothed with some real power and authority, and not be merely the one who signed certified copies of records, and that is about all he did, and probably called his brethren together occasionally, with in most instances very little authority or disposition to exercise that authority.

We provide also for the transfer of causes from one court to another, provided the court that receives the cause has jurisdiction of it. This does not mean the indiscriminate transfer of certain causes from, say, the circuit court to the district court of Cook County, but there is a large volume of cases of which both courts may have jurisdiction. For instance, in matters of domestic relations and those where it might be in the interest of an efficient administration of justice that they should be assigned to one court or the other, or perhaps the volume of business in one court or the other should become so great and not so great in the other that this provision for transfer may be one which is indeed salutary and necessary. In a large county like Cook, with a population which now composes one-half that in the entire State, you can readily see that there must necessarily be branches and even more than branches, there ought to be departments. A year and a half ago it was my privilege to see a little of the operation of the probate branch of the superior court of Los Angeles. The superior court of that county has jurisdiction very much like we propose our circuit courts shall have, and I inquired very carefully how they made disposition of the probate business, and I was informed that the judge who sat in the probate

department of that court had been the judge in that branch for nearly 20 years, that no transfer was made because he, of all the judges elected there, was proficient in that particular branch, and he was kept there by his brethren. So that we make provision here for the creation of departments and branches in the matter of domestic relations to which I refer.

Our committee heard a good deal about how causes arising out of domestic relations are now carried from one court to another. You may have a suit for divorce in the circuit court; you may have a suit for abandonment in the municipal court; you may have several other suits, some of them in the criminal court, and when you get through the parents and the children have visited a number of courts with all the delays that are attendant upon it, with very meager results and certainly involving great delays.

The creation of departments, it seems to us, is very important. Ample provision is made for that in the 35th section of this report, with authority of the chief justice to make assignments of the judges of the court to duty in these several departments. Now, unless the chief justice shall have authority, if he is compelled to go hat in hand to solicit the wishes of all of his associates on the bench, you can readily see that it may result not in the efficient administration which the committee seeks to accomplish, but quite the contrary.

In the County of Cook there arose this situation, which, of course, does not arise outside of Cook County because your county courts, with your county judges, are continued, but the county judge in the county court of Cook County appoints the election commissioners. He is the head of the election machinery in that city, a very important duty to perform, and hence we believe, at least until the law was changed, a provision was necessary to lodge that power, and by the 36th section you will find that the power and authority which is now conferred upon the county judge as such shall be exercised by the chief justice of the circuit court until changed by law.

In the 37th section we provide for the increase in the number of judges of these two courts, but we have a specific provision that the judges in both courts cannot be increased, but one may be added to either court, but not to both, for every 50,000 inhabitants in excess of a population of 3,400,000, and the number of judges of these courts, or of either of them, may likewise be decreased if in the judgment of the General Assembly such decrease shall be justified.

We come now to the provision of salaries. You know that in the County of Cook the salaries of judges are very much higher than for circuit judges in the State. We have now the incongruous situation of having the judges of the Supreme Court of this State paid a salary of \$10,000, of the judges of the superior court of Cook County elected after June, 1915, \$12,000 a year, and any circuit judges who will be elected for full terms, not vacancies, at the next election and thereafter will likewise receive \$12,000, while your circuit judges in the State are still receiving \$5,000 a year. I understand they will receive \$6,500 after the next election. But we have trial judges in one of the counties of the State receiving greater compensation than the judges of the highest court in the State, whose responsibilities are certainly greater, and whose duties are indeed very much more arduous than that of the average trial judge.

That was the situation which was created here in the year 1915. The State, however, pays the same salaries to all circuit judges, whether in or outside of Cook County, and the county makes up the excess. We continue that arrangement. We do not expect the State of Illinois to pay out of its treasury more to the circuit judges of Cook County than it pays to circuit judges of the State, nor do we expect—I don't remember whether I observed that the county judges of the State will be paid out of the State treasury under this plan—and we provide that the district judges of Cook County shall be paid the same salary paid to the county judge by the State, and the excess likewise shall be paid by the County of Cook.

Another point which the committee put in this report is the beginning of the term of a judge. I shall attempt to speak about that because of the situation which arose in this hall in the year 1915. We provide that the judge's term shall begin on the day of his election. We found we had the situation here in 1915 of 20 judges elected in the County of Cook on the 6th day of June, 1915. On the 7th day of June a bill made its appearance for the increase of their salaries from 10 to 12 thousand dollars a year. The committee thought that a thing like that ought not occur again. They were elected, and after they were elected their salaries ought not to be increased. If they should be increased, they should be increased in the light of day before election, and that will have to be done under this arrangement.

We provide in the 39th section necessarily in the consolidation of these courts that the offices of the clerks of the probate and criminal courts shall be dispensed with. The county clerk, of course, is ex-officio clerk of the county court, so that there is no abolition of that office. You remember under the Constitution of 1870, or when it was framed, it dispensed with a number of clerks' offices. There was not only one clerk to the superior court in Chicago, but there were a number of clerks, and I assume that probably this provision, not in this body but outside of it, may invite some opposition, because, as Thomas Jefferson said many, many years ago, "Of those who hold public office, few die and none resign," and when we provide in that report that at least the official offices of two gentlemen shall be discontinued after the expiration of their present term of office, it is entirely within the range of human possibility that a little opposition might be encountered, but we do not disturb those who are elected for the present terms, and we provide in the 39th section that the circuit clerk shall continue to be the clerk of the consolidated court, and the clerk of the municipal court shall be the clerk of the district court, with the same salary.

Now we come to the justices of the peace and constables of the County of Cook. Those officers have ceased to exist in the City of Chicago since the amendment of 1904 and the legislation that followed it, but Cook County, as you are aware, has a very considerable area, much of it agricultural outside of the City of Chicago, and the committee felt that perhaps there was still some demand, at least temporarily, for the continuance of these time honored, if not otherwise honored, offices, but it felt at the same time that a check should be put upon them.

First of all, we have the vice of fee offices, and it is not unknown in that county, certainly in some of the industrial centers where actions, both civil and criminal have been multiplied not necessarily in the interest of either party, but because it resulted in fees to the justice and to the constable, and it has always seemed to the committee, I don't believe there was any difference of opinion about it, that a judicial officer, however small the causes that came to or before him for determination, should not have the remotest interest in the judgment which he might render, and it seemed a sort of a disgrace that a fee office should be continued, especially with reference to a judicial officer. That was one of the problems that we sought to solve.

And another is that perhaps there ought to be a greater discrimination in the selection of the men who will occupy those offices. The office of police magistrate is one that has been guilty of graver offense than justice of the peace. You know the story right in our own part of Cook County where not long ago a magistrate elected in a village which had about the population of the minimum requirement under the statute was elected police magistrate, and when the legislature provided that the Public Utilities Commission could designate dangerous crossings, he had an office erected, or at least occupied an old building at a certain crossing in the southern portion of Cook County, and 50 arrests were made, I am told, and fines assessed of \$10 each and costs.

Now, we believe that in section 40 we have ended that sort of abuse, for we provide first of all for appointment of justices and constables for

a two year term by the chief justice of the district court of Cook County to be removed, with the cause of removal made a matter of record. An additional justice of the peace and constable may be appointed for every additional 10,000 inhabitants or major fraction thereof above a population of 10,000, so that if you have a town with 20,000 inhabitants, you can have two justices and two constables. I believe that is quite ample for any business that is necessary to arise, and that may not be fostered by such instances as I have cited. Now, these officers are to be paid by the County of Cook, and the fees and emoluments which they receive are to be turned into the county treasury.

The general provisions, gentlemen, I now invite your attention to just for a moment. We provide in the 41st section the judges of the Supreme, Appellate and circuit courts shall be at least 35 years of age, except present incumbents. If any member of the bench now of either of those courts has not yet attained that age, he is eligible to re-election. We do not mean to discriminate against any judge now serving. We provide that he shall have practiced law for a period of 10 years, or the 10 year period may be made up by practice of the law for a portion of the period, and the incumbency of a judicial office for the remainder of the period. The minimum age requirement with reference to the county judges of the State, and the judges of the district court of Cook County is 30 years of age, and their requirement in the way of practice or incumbency in a judicial office is 5 years instead of 10.

In the Constitution of 1870 there were restrictions upon changing the boundaries of districts for the election of Supreme Court judges, but there was no restriction to the creation of Appellate Court districts, and that perhaps was because these courts were authorized in the future, beginning in the year 1874. In the 42d section we have imposed the same limitations with reference to the change of districts for the election of Supreme Court judges that we find in the present Constitution, and we have extended those limitations to the creation or change of Appellate Court districts.

We believe the tenure of an Appellate Court judge should likewise be certain, not subject to change.

We provide in the 43d section a provision which we think necessary, that Appellate Court judges may by the Supreme Court be assigned from one district to another, and likewise circuit judges may be assigned by the Supreme Court from one district to another.

The 44th section is a general provision which provides that the consolidated court shall have jurisdiction of all the causes and proceedings that were pending in the predecessor courts and may make complete disposition, giving full effect to all orders that may have been entered before the consolidation.

The 45th section abolishes the offices of judge of the city court and judge of the probate court, and in that connection I might say that the last sentence of section 20 should be stricken out, because that is covered in section 45. In the first draft we provided that thereafter the judges of probate courts should be abolished, but section 45 is a general provision which covers both, and repetition is not necessary. In fact, it was stricken out in the report, and I fail to see how the printer kept it in the earlier sections.

Now, when it came to the abolition of the justices of the peace under the present Constitution, or their offices, and the succession by the new justices of the peace, some difficulty was encountered. It would not do to say, as we felt, that the new justice of the peace and the constable should be the successors to the old, because the number in all probability will be less, and we might have a situation, which has arisen more than once, of the predecessor claiming that his successor had not been definitely appointed or determined, and for that reason he kept on exercising the power of a justice of the peace; and I believe that if there is anything that ought not to be imposed upon the body politic it is an extra and an unnecessary justice of the peace and constable, so we provide here that when the respective

districts as they are named outside of Cook County, towns and portions of towns in the County of Cook—when justices of the peace are elected or appointed, as the case may be, for these districts, then as to such districts, towns or portions of towns, the office of justice and constable under the present Constitution shall be abolished. If we make the provision for abolition, then there can be no contention that there is a holdover until some successor who may never be elected or appointed shall qualify.

In the 46th section we have the provision applicable alike to the County of Cook and the State outside of Cook with reference to the justices of the peace and constables. Now, I should call your attention to one provision in section 46. There are, I believe, 8 towns in Cook County which lie partly within the City of Chicago and partly without. Of course, no provision could be made for the appointment of these justices or constables for the portions of those towns that lie within the City of Chicago. As to the portions outside a justice and constable may be appointed and if the population warrants there may be a second one under that provision of one for every 10,000 or major portion.

We have put in here that the electors not only of any district outside of Cook County, but of any town or portion of town in Cook County—and since the county pays the salaries of justices and constables, the electorate of Cook County outside of Chicago as a whole, not merely the township, may vote upon the question of abolishing the offices of justice and constable or either one of the two offices. That puts them, I believe, as Lincoln said about slavery, in the course of ultimate extinction, a consummation in many respects devoutly to be desired.

The 47th section provides that the salaries of all judges, Supreme, Appellate, Circuit, County and District Courts of Cook County shall be fixed by law, and except as otherwise provided or prescribed in this article shall be paid out of the State treasury. The exception, you will observe, gentlemen, is necessary because of the situation in Cook County. You do not want to pay the whole salary of the judges of those courts up there out of the State treasury, and the provision is made that they shall receive such additional compensation as may be prescribed by law to be paid by the County of Cook.

Now, we have a provision here: "The salary of no judicial officer shall be increased or decreased during the term for which he is elected or appointed, and no justice of the Supreme Court or judge of the Appellate, circuit or district courts of Cook County shall receive any other compensation, perquisite or benefit in any form whatever, nor shall he perform any duties, other than judicial, from which he shall derive any emolument." I think the comment upon that section is quite unnecessary.

The 48th section is section 29 of article 6 of the present Constitution, that all laws relating to courts shall be general and of uniform operation, a provision very often invoked, and invoked with very satisfactory results.

The 49th section is verbatim a provision of the present Constitution with reference to removal of judges, by a vote of three-fourths of the House. "All other officers in this article mentioned shall be removed from office on prosecution and final conviction of or misdemeanor in office."

Section 50: "All judicial officers shall be commissioned by the Governor. All officers provided for in this article shall hold their offices until their successors shall qualify, and they shall, respectively, reside in the district, circuit, or county for which they may be elected or appointed. Unless otherwise provided in this article, the terms of office of all such officers shall be four years, and they shall perform such duties and receive such salaries as are, or may be, provided by law. The appointing power to fill vacancies in elective judicial offices is hereby vested in the Governor."

If you look into the suffrage amendment, you will find that special elections to fill vacancies are not permitted under the report of the suffrage committee. An appointment is to be made temporarily until the next election comes on, and the gentleman from Champaign suggested this provision, which I think is a very satisfactory one, that the appointing power to fill

these vacancies temporarily in elective offices shall be vested in the Governor. We dispense then with a situation which has obtained so often, of calling a special election to fill a judicial office, with much expense to the county, or the circuit, as the case may be. That is done away with by that report of the committee, and the vacancy is filled temporarily. All we had to do here was to provide for the appointing power in these elective offices.

The 51st and 52d sections are verbatim sections of the present judicial article that we have today. There is no departure from them.

The committee, gentlemen, had, of course, in the framing of a judiciary article many diverse opinions, to say the least. It has sought as best it could to bring some harmony and system out of all these conflicting views. The discussions which the committee had were aided, of course, not only by members of the convention but by men who contributed much light from the outside. The committee is grateful for their contributions, and it submits this work to your careful consideration.

We hope the light of day will shed upon it, and when the discussions here shall have been completed in the committee of the whole, we hope that there may be at least some improvements in the present judicial system of this State. (Applause.)

CHAIRMAN CUTTING. The clerk will now read the first section of the committee's report.

(Section 1 read.)

Mr. DEYOUNG (Cook). I move the adoption of the section.

Mr. BRENHOLT (Madison). I desire to offer the following amendment.

AMENDMENT No 1.

Amend section 1 of Proposal No. 383 by inserting before the word "county" in line 3 the following words, "city courts."

Mr. BRENHOLT (Madison). The county in which I live now has a population of 106,000 people. We have two city courts, one in Alton and one in Granite City, and if the old Constitution prevails for a short time longer, it is intended to create another city court in Collinsville, a city of over 15,000 population. The city courts of Alton and Granite City have two excellent judges.

The city court at Alton has been in continuous operation since 1837. In it the famous trial of Lovejoy for treason was held. Its history is rich in famous judges who have graced its bench. It is a worthy court. Those judges are oftentimes called into the circuit court, and serve there for a number of days, and I have never heard any criticism against any judge of the city court as to ability or dispatch in the transaction of business of these courts. City courts in general are a matter of convenience. Our community is a growing community, and many special improvement cases occur there. The city court enables many people to get into court with their objections to special improvements, and it brings about a condition of satisfaction, and shows an effort to do something for the convenience of the people. The city courts in Alton and Granite City, I believe, transact as much business as the circuit court. The circuit court in our county is located 14 miles from Alton and about the same distance from Granite City. Some of you know the troubles which lawyers are put to, getting to the county seat to try their cases, and we are always in trouble in getting into court at the proper time.

The chairman said that the amount of money paid for the maintenance of these courts was more than is paid for the circuit courts. I want to say, in reference to our city court of Alton, that that is about the only return we get from the State tax. The city judge gets his salary from State funds, and it has been that way for some time. I do not think it is right that this service should be taken away from the people. If they desire to maintain a city court, I do not see any good reason why the Constitution should not give

them that privilege. I believe that all matters, whether before commissions or courts, should be brought to the people, and I believe it is an injustice to require the people of a city of 27,000 inhabitants to go 14 miles to try their cases. I think the court should be at the place of greatest convenience to the patrons of the court. We have a plan for a system of good roads to be built over the State, on the basis of serving the greatest number of people. The same thing should apply in the case of the courts, and I believe that if this right is taken away from our section it would cause a great deal of dissatisfaction. I hope there is some way of fixing the section so that if the people desire to maintain a city court they may have the opportunity.

Mr. BRANDON (Kane). The situation outlined by the gentleman from Madison exactly fits the situation as to Kane, but it was my understanding that it had been solved. I would like to ask the chairman of the judiciary committee if it is not possible under this proposed article for the city courts in Alton and Granite City, and the circuit court as it now exists there, to be converted into a court for Madison county alone, provided there is a showing of enough business to warrant it?

Mr. DEYOUNG (Cook). If Madison county has a population of 100,000, and has business for nine months in the year, it can have a separate circuit of three circuit judges, paid by the State.

Mr. BRANDON (Kane). And in the same way, if the County of Kane had 100,000 population, with a city court in Elgin and Aurora, there is no reason why the present quarters occupied by those courts could not be the seats of additional judges under a single circuit court for Kane county.

Mr. DEYOUNG (Cook). Absolutely no reason. There is such elasticity here that every requirement, it seems to us, could be met.

Mr. BRANDON (Kane). I would like to ask the gentleman from Madison why the provisions herein set out will not solve his difficulty?

Mr. BRENHOLT (Madison). I believe the word "may" is used. We would be obliged to come to the legislature with some sort of a lobbying proposition, to get the legislature to agree that we required a court.

Mr. DEYOUNG (Cook). There never has been found a lack of disposition to create additional judges and courts where the Constitution permitted it.

Mr. DUPUY (Cook). I would refer the gentleman from Madison to section 19. Assuming that you can have an adequate number of judges of the circuit court for the transaction of business, you are under no necessity of going to the legislature to get any relief at all, but the judges of your court may provide for the holding of court in those cities in the county with a population in excess of 5,000.

Mr. BRENHOLT (Madison). We have seven counties in our judicial circuit. In the County of Madison there are four cities in excess of 5,000. If you are going to allow a branch of the circuit court to be held in one, it would be required in the others, and there would not be enough judges to take care of the business.

Mr. TRAUTMANN (St. Clair). I am opposed to the amendment. There are five city courts in the third judicial circuit. It is the largest in Illinois in point of population. There are eight judges there today, three circuit and five city. Under the provisions of section 19 a majority of the circuit judges may hold a court in any city of 5,000 or more, and assign cases there, except criminal cases. It seems to me the provisions made here are superior to the present arrangement. I think it is better to have circuit judges holding courts in cities than to have separate city courts. The cities of Madison and Venice, of over 5,000, have no court. The people when they go to court at Edwardsville, go through Granite City. Under this provision they can transact their business in Granite City.

Mr. BRENHOLT (Madison). Why not give the city court greater latitude, then?

Mr. TRAUTMANN (St. Clair). You cannot give the city court jurisdiction outside. Under this arrangement you can have a court in Collinsville and Alton. People from Godfrey and other places must go through Alton to get to Edwardsville. The same is true in my county. The people of National City, Cahokia, and other places must come to East St. Louis and go on up; and all of this businesses can be transacted in East St. Louis under this provision, except criminal cases. There is no reason why St. Clair county and Madison, under this provision, should not be a circuit by themselves. Each has over 100,000 inhabitants and each has considerably more than nine months business. Since the passage of the act of the legislature providing for the payment of salaries to city judges, numerous city courts have sprung up that are not necessary at all, and the privilege has been abused. That can be remedied by amending the act so that the cities shall pay for their own judges, so that might be eliminated, but it has been my experience that wherever lawyers conveniently can, they take their cases to the circuit court instead of the city court.

Taken as a general proposition, I feel that this provision as made in this proposal should be adopted, and the amendment should not prevail.

Mr. TAFF (Fulton). I come from a city where there is a city court, which has heretofore served a very useful purpose. In our county we have been unfortunate in not being able to get the legal business transacted with dispatch, because of being one of the largest counties in the circuit and because for a number of years one of our judges has been a member of the Appellate bench. We are some two years behind. We are now holding circuit court with a judge from one of our city courts. That is the situation with us. I am not in favor of retaining the city courts, provided this article will adequately take care of the business of the different circuits. The proposal is to do that by eliminating the appointment of circuit judges to the Appellate bench, which would release one judge for trial work in our circuit.

The first Monday of each month is made return day. I have some doubt about that. In a circuit like ours, with six counties and three judges, I doubt if the judges can attend the different county seats on return day, unless it is made a perfunctory matter. Our city court has been very useful in expediting business arising within the city. The lawyers of our city use that court practically to the exclusion of the circuit court where the city court has jurisdiction, but because of its limited jurisdiction in many instances it cannot be used. If the proposal now under consideration provides for the dispatch of the business of each circuit expeditiously, I think the problem has been solved with reference to getting our cases tried. It is unfair to all parties that any circuit court of this State should be two years behind in its business. I shall vote for the committee report, even though it means the elimination of our city court.

Mr. WALL (Pulaski). We have nine counties in our circuit. We have three city courts, two of them in county seats. My observation of city courts has been as to their ability, that it is very fair. I was of the opinion when city courts were first created that we would have a great number of inferior courts, considering the jurisdiction they have, but I do not find it so. I believe that the average ability of the city judge is much better than many of us thought it would be, but it is not anything like as good as that of a circuit judge. I think that is an element that should be considered. Consequently, is there any necessity under the provisions of this article for the further continuation of these courts as a whole? There might be some particular locality where, even though all of the provisions of this article were carried into effect, it would be convenient for the people to still retain their city judges, but upon the whole I believe they are absolutely unnecessary. The city judges of my circuit do not hold enough court, if paid at the rate of \$20 per day, to earn one-fifth of the salary they get. The thing that is decisive to me of this question is that since the salary of city judges have been payable out of the State treasury, the city courts of the State

have very largely increased in number, from 9 to 27 in two years. The result is what might be considered almost an abuse of the privilege.

I think on the whole we ought to abolish city courts, and I am against the amendment.

Mr. ELTING (McDonough). We have a city court in our county. One of our circuit judges has been on the Appellate bench and one has been ill, and we have had one judge to look after the business in the ninth judicial circuit. I like the provision made in the report to take the place of the city court, if it can be made workable. It is better in that it would give you jurisdiction of all cases in your cities excepting criminal cases. I am fearful, however, that there may be a disposition on the part of the circuit judges to have as few places to meet as possible. Then there will be an inability of the judges to be present on the first of each month at the opening of court, in more than three places. However, unless we can work out some plan, as started by the committee report, to meet our demands, we should retain the city courts. I think it is very important, indeed, that a local court be provided, especially for people of small means, where they can have their matters adjudicated.

Mr. DEYOUNG (Cook). In one or two instances there may be an appreciable volume of business transacted in city courts, but that is true only of a very few, as I am informed. I happen to know of a city court in a city of more than 20,000 population, far removed from the county seat, and the time occupied in the entire business for the whole year does not exceed four weeks. And it is a well known fact, despite the inconvenience of going to the county seat, that the lawyers of that city take the bulk of their cases to the county seat. We were informed by one of the judges of this State that there are certain city courts from which, although they have existed for some years, an appeal was never taken to the Appellate Court or Supreme Court, because the number of cases tried could be counted on the fingers of one hand.

Something was said about the County of Kane, with a considerable population, lacking about 500 of 100,000. The city of Aurora has a population of nearly 40,000. In 1918 the city judge of that court served in the circuit court of Cook county alone 140 days, and in 1919 142 days. And it does not follow by any means that upon the remaining days court was held every day. Here is the judge of the county court of that county, who in 1916 served in the county court of Cook county 211 days, in 1917 212, in 1918, 130, and in 1919, 164. The probate judge of that county served 296 days in 1916, and 278 in 1917, and 194 in 1919.

Mr. BRENHOLT (Madison). Are you aware of the cases appealed to the Appellate Court for our district from Madison county there were many cases more such from the city than from the circuit courts.

Mr. DEYOUNG (Cook). That may be true, but if you will consider the fact that you have seven counties in your circuit, for which three judges are elected, and that it is possible under the present plan to elect three circuit judges for your county alone, they may sit in the several cities of your county, and I believe that if there is a demand by the bar associations of your several counties or cities, your circuit judges who come up for re-election every sixth year will not ignore the demand to sit in the more popular centers of their respective counties and circuits. I think that is something we can well infer.

Now, the weak point in the judicial article of 1870 was the permission to organize these city courts. There are city courts in Illinois today that exist only in name, practically, with their salaries paid out of the State treasury. Why should that be? In the convention of 1870 the situation was referred to by a leading member of the convention, who called attention to the fact that in the City of Amboy, in Lee County, under the provisions of the Constitution of 1848, there was created a court for a city of 2,500 population. The same door would be open here under this amendment. In 1848 they argued just as the gentleman from Madison argues now, that the

Supreme Court of Illinois, the court of last resort, ought to be brought to the people, and it was only after a long debate that they held it down to three divisions. Even with the difficulty of transportation, they wanted the Supreme Court to sit not once, but oftener each year in every circuit. There is not a lawyer today who would argue for that.

Can we bring the administration of justice to everybody's door in every little hamlet of the State? It cannot and should not be done. It seems to me, gentlemen, we ought not permit the legislature to have this leeway. In the 50th General Assembly there was a court created for the town of Cicero. It was only in the executive offices of this State that that matter was stopped by veto. In my own city, it has been thought of. There is no need for it at all, except that it might create a place for an enterprising lawyer to receive something from the State treasury.

I hope the committee's report will be concurred in, because if there be one weak element, it would be in opening the door to permit the indiscriminate creation of city courts.

Mr. TAFF (Fulton). May I ask: Did you mean to leave the impression that the salaries of the judges of the city courts of Madison County, for instance, were four times what the circuit judges were?

Mr. DEYOUNG (Cook). I said the aggregate of salaries of all city judges in the State, paid out of the State treasury, was nearly four times the salaries of the judges of one circuit.

Mr. TAFF (Fulton). That is, 28 city judges receive four times as much as the judges in one particular circuit.

Mr. DEYOUNG (Cook). Yes. Now, further, you must distinguish between an actual session of a court and the term of a court. The fact that process is returnable does not require the actual presence of the judge. He may come there some time after the return is due, and defaults may be taken, so that you would avoid delay.

Mr. TAFF (Fulton). That would be true, unless there was some motion to be made.

Mr. DEYOUNG (Cook). That can be made and set by the judge at any time.

Mr. BRENHOLT (Madison). I did not imagine when I offered this amendment that it would develop such a prejudice against city courts. I want to go on record as saying that I can see no good reason why, even in the face of the remarks of the gentleman from Cook, these courts should be done away with. He cannot possibly see with the same eyes I do the value of city courts with reference to the conveniences of our people. I am going to ask for a division of this house, so that the city courts of the State may see for themselves how the sentiment lies here.

(Amendment lost.)

Mr. DEYOUNG (Cook). The printer, in line 4 of section 1, interpolated the word "the" before the words "justices of the peace." I move to strike out the word "the."

(Unanimous consent was granted.)

(Section adopted.)

(Section 2 was read and adopted.)

(Section 3 was read and adopted.)

(Section 4 was read and adopted.)

CHAIRMAN CUTTING. Sections 5, 6 and 7 by common consent are to be left until the last part of the hearing, unless there is objection by the committee.

Mr. HAMILL (Cook). Do you conceive that it would be within the power of the Supreme Court, until the legislature shall have acted, to determine to have more than four terms?

Mr. DEYOUNG (Cook). Yes, under section 4.

Mr. HAMILL (Cook). Who determines that?

Mr. DEYOUNG (Cook). The court itself.

Mr. HAMILL (Cook). Under what provision?

CHAIRMAN CUTTING. The rules of procedure.

Mr. HAMILL (Cook). I was wondering whether that would include this power.

Mr. DEYOUNG (Cook). As I understand it, the number of terms are fixed by itself by virtue of the existing provision, and we have followed that.

(Section 8 was read and adopted.)

(Section 9 was read and adopted.)

(Section 10 was read.)

Mr. DEYOUNG (Cook). I move its adoption.

Mr. TRAUTMANN (St. Clair). I desire to offer the following amendment and move its adoption:

AMENDMENT No. 2.

Amend section 10 of proposal No. 383 in line 8 by adding after the words "Mt. Vernon" the words, "until otherwise provided by law."

Mr. TRAUTMANN (St. Clair). This section is very flexible, except with reference to that one provision for the holding of the Appellate Court. This provision states that the Appellate Courts shall be held in Chicago, Ottawa, Springfield and Mount Vernon. I present the amendment because of the fact that as the years go by, the population and business may shift, and there may be some reason for holding an Appellate Court somewhere else. It seems to me that that is a matter that should be determined by the people at some future time, by an act of the legislature. Provision is made here elsewhere that the districts of the Supreme Court and Appellate Court may be changed by law. The same counties now in a district may not be in that district 30 years from now, and it may be found that if those districts are changed, it will be very inconvenient to hold the Appellate Court in one of these cities. I think my amendment applies to all of them, and I have added it at the end of the sentence, for it seems to me it would be advisable and wise to make a provision that is a little more flexible.

Mr. DEYOUNG (Cook). I cannot speak for the committee, but personally I am perfectly willing to assent to the amendment. If there is any objection, I would like to hear it.

Mr. MILLER (Cook). Why not put it at the beginning instead of at the end? Otherwise it will be considered a discrimination against Mr. Gilbert.

Mr. TRAUTMANN (St. Clair). By permission, I will move that in line 5, immediately preceding the word "the" the words be added, "until otherwise provided by law."

Mr. GREEN (Champaign). I move that unanimous consent be given the chairman of the committee to make the insertion as a part of the report.

Mr. SCANLAN (LaSalle). I object to unanimous consent.

CHAIRMAN CUTTING. The question then is on the motion to amend.

Mr. JARMAN (Schuyler). Would not the amendment permit the establishment of two districts instead of four?

Mr. DEYOUNG (Cook). Not at all.

Mr. TRAUTMANN (St. Clair). It simply advises as to where the terms of the court shall be held.

Mr. GILBERT (Jefferson). As I understand the amendment, it was not to apply to the four appellate districts.

Mr. DEYOUNG (Cook). Only to the place of their sitting.

Mr. GILBERT (Jefferson). To the places of holding court, and not to the fourth district alone?

Mr. DEYOUNG (Cook). No, to all of them. It modifies the whole sentence, and has reference solely to the places where the sittings of the court shall be held.

Mr. GILBERT (Jefferson). So, by law, the places for holding the Appellate Court in each of the districts might be changed by the legislature.

Mr. DEYOUNG (Cook). Yes.

(Amendment adopted.)

CHAIRMAN CUTTING. The question is upon the adoption of the section as amended.

Mr. JARMAN (Schuyler). I desire to offer the following amendment:

AMENDMENT No. 3.

Amend section 10 of proposal No. 383 by inserting in lines 4 and 5 after the words "said districts" the words "and the number thereof."

Mr. JARMAN (Schuyler). The purpose of this amendment is this: I think it would be very desirable if there were only two districts of the Appellate Court in this State, at Springfield and Chicago, the district of Springfield consisting of seven judges, and the district at Chicago consisting of the number that from time to time may be necessary. That will do away with the four districts. To my mind, that is the logical and only way of establishment of the Appellate Court. It would then give you perhaps as good a court as the Supreme Court is now. It would reduce the application of appeals, and in every way facilitate the administration of justice. This only provides that if that may be desirable in the future, the legislature may so provide.

Mr. SCANLAN (LaSalle). Does not that amendment give the legislature the power to change the organization of the court? Do you think it is wise to change the jurisdiction?

Mr. DEYOUNG (Cook). The jurisdiction can be changed under section 11, but you do not want to change the organization of the court itself.

Mr. SCANLAN (LaSalle). The only object is to permit the establishment of two districts instead of four.

Mr. TRAUTMANN (St. Clair). Or any number.

Mr. DEYOUNG (Cook). Mr. Gorman suggests to me, merely for the purpose of discussion, that your purpose would be better served by proposing an amendment as follows: "Said districts and the number thereof"—in line 5—"shall remain as now constituted." Otherwise your provision, "until otherwise provided by law," at the end of line 4 might give the legislature the right to change the organization.

Mr. JARMAN (Schuyler). I think that suggestion is all right, and I am perfectly willing to accept it.

Mr. DEYOUNG (Cook). I am not assenting to it. It is merely for the purpose of discussion.

Mr. JARMAN (Schuyler). I will accept the suggestion.

(Amendment lost.)

CHAIRMAN CUTTING. The matter now comes upon the motion to adopt the section as read.

Mr. DEYOUNG (Cook). First, there should be a comma inserted after the word "each" at the end of line 9. I ask unanimous consent.

(Consent granted.)

Mr. DEYOUNG (Cook). I move the adoption of section 10 as amended. (Section 10 adopted.)

Mr. DEYOUNG (Cook). I move the adoption of section 11.

Mr. MORRIS (Cook). I am somewhat loathe to interpose my views as against the well considered idea of the many learned gentlemen constituting the committee whose report we are now considering, but after all there is a question of principle involved in the consideration of this section.

Under the present Constitution judges of the Appellate Court are selected from among the judges of the circuit court of this State, and the circuit and superior court of Cook County. The people elect those judges. This is simply an indirect way of conferring upon the Supreme Court the power and the rights of the people to select their judges, because the judges of the Supreme Court under this provision are not required, as has been very plainly told us by the Chairman of the Committee, to select the judges already chosen by the people. On the contrary it may be safely assumed that they will not do that, because the same objections that we now have would be there, namely, we would be taking judges from the performance

of their duties and putting them on the Appellate Court and the circuit court from which they were taken, would suffer, the business would fall behind.

Now we are constituting the Supreme Court not only judges of disputed questions of law and sometimes of fact, but we are conferring upon them the right to name our judges and I say that that right ought to be preserved sacredly by this Constitution to the people, and we are going to have independent Appellate Courts, or Appellate Courts not selected from the circuit or superior court, then the people ought to elect those judges.

There is not any reason in the world why judges of the Supreme Court should be permitted to select judges of another intermediate court, who are given almost final jurisdiction in many of the matters coming before them. The people ought to be permitted to speak.

They are permitted to say who shall be the judges of the Supreme Court, and why confer this great political power on the Supreme Court? And it is almost a physical impossibility for anyone to discuss this entire report of the committee without taking into consideration what seems to underlie the very plan, conferring not only judicial powers but large political powers upon the Supreme Court. They are permitted to name the chief justice of the circuit court of Cook County, and under the provisions of an act now before you but which will necessarily come, because they are so blended and necessarily interwoven with the other, you cannot have the one without having the other, that chief justice is made judge of the County Court, and all of the politics of Cook County is centered in and around and about the judge of the county court. If you are willing to have the Supreme Court control absolutely, indirectly but nevertheless just as firmly and just as positively, almost the appointment of every judge of election of every precinct in Cook County because he names the judges, the chief justice of the circuit court, and the chief justice of the circuit court is judge of the county court. Now, I am not willing to do that. I think that after all the heads of this county in whose hands the rights of the people are, are usually safe, and can be relied on. If we are to have these Appellate Court judges, and I am not opposed to Appellate Court by any means, and I am not opposed to conferring all the necessary and reasonable power upon judges of the Supreme Court that may be required, in order to function as such, but here you are taking the political power of the people absolutely out of the hands of the people and putting it into the hands of the judges of the Supreme Court and largely making a political machine out of the Supreme Court, and if you go further and do as this report suggests you have a Supreme Court of Chicago, because you will have three judges from that district and they will practically control the Supreme Court inasmuch as it only takes five, and they will name all of the judges of the Appellate Court in the various districts, and all the judges have to do, the three chosen from Chicago, is to get two friends from down State to act with them and they have the entire political machinery. I am opposed to it. I want to go on record as against it. I do not believe when the people of this State understand the various ramifications and workings of this provision they will ever endorse it, they ought not to, if they want to do it it is all right, if they want to tie themselves up and bind themselves that way, it is all right, but they ought to do it with their eyes wide open. Somebody will go out and open their eyes, if they are not already opened, to the danger of this provision. The judges of the Appellate Court ought to be elected just the same as any other judge and I offer this amendment:

AMENDMENT No. 4.

Amend section 12 of proposal No. 383 by striking out in the second line the sentence beginning with the words, "Supreme Court" down to and including the word "appoint" on the third line—and insert in lieu thereof the words, "and there shall be elected at the annual election in November, A. D. 1922," striking out of said section all the words in said section begin-

ning with the words "Supreme Court" in the sixth line down to and including the words "by appointment" in the ninth line.

Mr. SCANLAN (LaSalle). I am in favor of the amendment and I think we ought to elect our Appellate Court judges. I am not in favor of conferring on the Supreme Court the vast power provided for in this section. They are playing politics the same as anyone else in civil life, and have been in the past. They will make deals the same as men off the bench. I don't think we ought to place in the hands of the Supreme Court the power to do this thing. We ought to preserve the right to elect Appellate Court judges. I am in favor of the amendment.

Mr. CORCORAN (Cook). I wish to say that I am unalterably opposed to the appointment of any judges, and therefore I am in favor of the amendment.

Mr. ELTING (McDonough). I am in favor of the amendment. I think it is very important that we keep the branches of our Government separate and distinct from each other, that we preserve to the executive, legislative and judicial departments, as we have announced in the former draft of our Constitution, the duties that belong to them. I think it would be a great mistake if we allow the Supreme Court to fix the jurisdiction of the Appellate Court and then select the judges. The judges that are serving on the benches of our country, their allegiance should be to the great commonwealth of Illinois and not to any appointing power, and we should relieve the Supreme Court of the possibility of being accused of working politics in matters so important as the selection of judges. As it has been stated by the delegate from Cook, we have had judges that have been elected by the people, serving on the Appellate bench, and what we want to make in this Constitution is to make better provisions than we had before.

When you elect a man from his district it is possible under this proposal for the members of the Supreme Court to be dominated absolutely by Chicago, because as I see it we may limit Chicago in the legislature, and we may limit them in the Senate, and we may limit them in the Supreme Court, but we would not limit the political influence of a great city like Chicago. This political influence is manifest to everybody in this State, and I heartily agree with the delegate from Cook that it would be an almost fatal mistake for us to send out a provision that will allow the judges of the Supreme Court to select not only the judges of the Appellate Court, but to define their jurisdiction. I was in favor of the amendment introduced by the delegate from Schuyler that we should have a court comparing with the dignity of the present Supreme Court, and we can make it such by electing our judges and defining the jurisdiction of that court. Then our court will be free from all of these questions of politics. I say that if there is anybody that has a right to make a mistake it is the people. It is their right to make a mistake and if they make a mistake they are ready to correct it and can correct it, but you put into the Constitution that the Supreme Court is to furnish the Appellate Court for the next ten years with judges, and the people cannot change it unless we have another Constitutional Convention. I say it is a serious matter, the Supreme Court as it stands today is the highest tribunal in this State and is one of the best tribunals, and I say that we do not want to give them the possibility of charges being made that politics is used in the selection of judges for the Appellate Court. Now what is the use, what would be the benefit to be derived from allowing the judges of the Appellate Court to be appointed? What complaint have you to make to the people selecting their own judges? I tell you if you create this Appellate Court and give it proper jurisdiction and allow the people to select their judges you will have a court of equal dignity with the Supreme Court today, that will lessen, gentlemen of the convention, the clamor and the cry that is made about cases that should go to the Supreme Court. It has been stated that forty per cent of the cases that attempt to get into the Supreme Court fail to get in. My point is this,

that in the trial of law suits the client and the lawyer that is prosecuting the case are the people that know just about as much as anybody else whether the case should go to the higher court or not. I think they are the ones that should decide, and the question of expense should not be considered when people are seeking justice, I don't care how small the amount is involved, or how great, the question of expense should not be considered when the rights of the people of this great commonwealth are involved. I don't want to take up the time of this convention, but as the gentleman from Cook stated, it is an important question, a question vital to our commonwealth, to have cases disposed of by men of our own selection.

Mr. JACK (Jasper). I don't start to argue this question at any length, I simply desire that my position be put in the record. I am in favor of the election of the Appellate Court judges. I believe we can get just as good, just as able and just as capable judges by the people electing them as by conferring the power upon the Supreme Court to appoint them. I have a prejudice against lodging in the hands of any court higher political power, that is the power to appoint officers, and as I can see that this is virtually allowing an intermediate appellate court to be controlled by the Supreme Court of the State of Illinois I say, gentlemen of this convention, that if this power is lodged in the hands of the Supreme Court of the State of Illinois, in the course of forty years you will see that the Supreme Court, in place of enjoying the high confidence of the people of the State of Illinois that it now does, being abused and censured in all parts of the State for engaging in political fights.

In other words, gentlemen of the convention, the man that sits to determine the rights of supreme citizens should never be put into the position of being in any way influenced or controlled by favors that might arise out of the appointment. With at least twelve, I don't know how many appellate judges you have in Cook county—

CHAIRMAN CUTTING. We have nine in Cook county.

Mr. JACK (Jasper). Eighteen important officers in Illinois, scattered from one end of the State to the other, and you will find, in my judgment, that in the course of years it will bring censure upon the Supreme Court of the State of Illinois, and cause the people to lose in part the great confidence that they now have in that court. Some may say that they will not consider this in a political way; I want to say to you now that they will consider it in a political way, and as it affects their individual interests, because the men who hold those positions are but human, and I know that the circuit court judges, with the power to appoint masters in chancery, consider carefully the political influence that it may have on their future prospects. I don't guess at this, I have in mind an incident that happened three or four years ago when our judge carefully considered this from every possible standpoint as to which man would produce the best effect to him as a master in chancery. He belonged to the opposite political party, and he conferred with me about it and talked with me frankly, and I think that he made a mistake when he made the appointment he did. You will find the same question coming up in our Supreme Court, and for this reason I say vote for the amendment to make the Appellate Court judges elective.

Mr. O'BRIEN (Cook). It strikes me that this departure from the time honored custom of electing judges is dangerous, and I do not believe it was ever intended that all powers of administration should be given to the Supreme Court. It might lead to wire pulling and undoubtedly will, on the part of individuals who could not go before the people and be elected, and be entitled to the title of judge, but will assume it by preference, or influence with the members of the Supreme Court. I think it is a dangerous departure, and therefore I am for the amendment.

Mr. JOHNSON (Henry). I am opposed to the amendment offered by the gentleman from Cook, and I am for the appointment of judges as set forth in the report of the committee. There is a great deal to be said in the appointment of all judges, there is a growing feeling for the appoint-

ment of judges, and if I am correctly informed there are States in the Union today in which the judges are appointed and not elected. Do we forget that the United States judges and the district court judges are all appointed? Do we find any fault rendered by these judges?

I don't think we need fear any political effect in the appointment of these judges. I submit, too, the popularity of a judge should not be his qualifications, and when the people of a certain district or a State elect their judges, we all know the result is a great deal dependent on whether that man is popular or not, and not so much as to his actual qualifications. I think we can well entrust the Supreme Court of the State of Illinois, elected by the people of the respective districts, to make wise selection of judges of the Appellate Court. I think, too, it is an entering wedge and will give the people a chance to see what work selective judges can do. I am heartily in favor of the amendment and furthermore I am in favor of the report as submitted by the committee. Furthermore, I have been told that the committee has considered this matter very carefully and that the members of the committee are all in accord in wishing to have these Appellate Court judges appointed. I can see no evil resulting to the people themselves in submitting to this appointment.

The judges, as I have before stated, of the United States courts give universal satisfaction in their work, and furthermore, when we elect the judges of the Supreme Court we have in a way a check on the appointment because the judges of the Supreme Court will defer to the wishes of the people insofar as they are appointed to the Appellate bench. They are well qualified, and further we know that a great many attorneys who are well qualified to be judges are not willing to submit themselves as candidates at a popular election, and furthermore we know that if they went before the people at a popular election they might easily be defeated by attorneys of much less ability simply for the reason that these attorneys have more popularity or are backed by some political machine. I much prefer to have what little politics would enter from the appointment by the Supreme Court than to have the politics that would often enter and we know quite often in the appointment of the election of judges by the people. I hope the amendment will not carry and that the report of the committee will prevail.

Mr. LINDLY (Bond). In the argument of the delegate, he says to remember that the appointment of the United States judges is not by a court. The Supreme Court of the United States does not appoint the judges of the United States district courts. In other words, I am absolutely opposed to any one court of the State appointing the other courts of the State. If I were in favor of the appointment, I would not want it to come from that source.

Their argument absolutely fails, too, when they say that the men who are elected will not have the ability, because they say that the people can't elect the judges to the Supreme Court who have the ability, yet they are not capable of electing men to the Appellate Court who have that ability. Their argument fails there and I fail to see any argument in favor of the appointment by the Supreme Court of the appellate judges of this State. Not taking up further time and argument on this, I simply desire to say that the judges of the Appellate Court ought to be elected, the people ought to be entrusted with the election of them the same as they are with the election of the Supreme judges, and I believe it would be setting a bad precedent to let one court appoint another court in this State.

Mr. MIGHELL (Kane). I don't want to take up but a minute of your time. I rise to support the report of the committee, and one of the reasons I do so is because I distinguish in my mind the different effects upon the court of the appointment of purely political positions, executive officers, and the appointment of officers connected with the same department of government that the appointing power is. Now we have in effect, I am told, circuit court judges who are authorized to appoint the commissioners of parks. I believe that has a very bad effect on the judiciary of Cook county, that is

that authority. It drags them into politics and it also lowers the standards of the judges of the courts who are involved with appointments of that character, but I do not see any objection to authorizing the judges to appoint officers connected with their own departments of government, for instance, we have already authorized them to appoint a clerk and a reporter, and there is no objection to that, it was right along their line, and I think they should be authorized to appoint these assistant judges, for really the Appellate Court are simple assistant judges to the Supreme Court. The court was created to relieve the Supreme Court of some of its work, and I look on them and their appointment as I would look on the appointment of masters in chancery of the circuit courts. I think it is a safe and sane proposition to have the Appellate Court appointed by the Supreme Court.

Mr. SCANLAN (LaSalle). You realize, of course, that this report provides the Supreme Court with power of making rules governing the Supreme Court?

Mr. MIGHELL (Kane). I do.

Mr. SCANLAN (LaSalle). They make not only the rules, but appoint the judges.

Mr. MIGHELL (Kane). I believe they do.

Mr. SCANLAN (LaSalle). With certain limitations?

Mr. MIGHELL (Kane). It limits the jurisdiction as to what shall be final and shall not be final.

Mr. SCANLAN (LaSalle). And appoint the judges, are those things true?

Mr. MIGHELL (Kane). I think so.

Mr. LINDLY (Bond). He says politics ought to be kept out of the courts, and I would like to ask you that if in the history of the United States or the Supreme Court of the State of Illinois, where it has come to a strict political question which had to be decided if the court, the Supreme Court of the United States or the Supreme Court of Illinois have not divided on party lines, one instance where they never did.

Mr. MIGHELL (Kane). I don't know the history of the Supreme Court in all of its decisions, or the history of the Illinois Supreme Court in all of its decisions. I know the Supreme Court judges are human, but I think that they are the very best men that we have. I think they are responsible to the people for the judicial department of our Government. I think the thing to do is to place the responsibility on them. The decisions of the Supreme Court are controlling on the Appellate Court. What harm if they do control the Appellate Court? Their decisions ought to control the Appellate Court and then they should be supreme and are supreme.

Mr. GILBERT (Jefferson). I think the report of the committee is an extraordinary example of fine work of the able members of this committee. It has in almost every respect my hearty endorsement and approval. With the report, however, that is before the convention at this moment, I cannot agree. In the district from which I come I have made it a point to inquire of the leading members of the bar their feeling as to whether or not they favor the appointment or the election of the judges of the Appellate Court, and I wish to say, gentlemen, without a single exception, the response has been in favor of the election of the judges of the Appellate Court. I noticed, not long ago, that the question of the election or appointment of judges was taken up by some of the Chicago newspapers, perhaps through the Bar Association of Chicago, and I think a majority of the lawyers went on record in favor of the election of the judiciary. Now if the members of the bar, in the main, whose judgment ought to be worthy of consideration, favor the election of the judiciary, we must realize that the voters, the people who furnish the vote in the main, are almost unanimously in favor of the election of judges, too. Go to the average business man and ask him whether or not he is in favor of the appointment or the election of judges, and I think in ninety-nine cases out of one hundred you will find

that he will answer you that he is in favor of the election of all judges, not only circuit judges, county judges, Supreme Court judges, but judges of the Appellate Court as well. Now let us not jeopardize the fine work of this committee by putting into this Constitution a provision that the people are not in favor of. I don't believe the people of our district or any other district in Illinois believe in the appointment of any portion of the judiciary. Now the work of the committee is excellent. It will make a great improvement in the judicial system of this State in expediting and systematizing the work of the courts, and while they have carried along with their theory the appointment of the Appellate Court judges, their plan will work just as well, as I see it, and just as efficiently, as I see it, if the Appellate Court judges are elected in the respective Appellate Court districts. Certainly no one will say to the convention that the people of the counties which comprise the Appellate Courts are not as capable of selecting judges of the Appellate Court as they are judges of the Supreme Court? No one will say that. Now, as I said a moment ago, don't jeopardize the great plan that has been mapped out by this committee by putting into it a provision which I believe is objectionable to ninety per cent of the voters of Illinois.

Mr. COOLLEY (Vermilion). I did not rise to make an argument on this question, but simply to ask a question. It does not seem to me, realizing as I do the ability of the members of this convention, the character of the work that they have done, that I should make an argument. I certainly hesitate to speak, yet I feel it might be helpful to get the viewpoint of a layman. I have no doubt the Supreme Court is better qualified to appoint judges than any other agency, and yet the layman has always felt that there was in the Supreme Court wisdom, and justice and equity. That is where he can go as a last resort for justice. The one question I ask is this, is it fair to your Supreme Court to jeopardize it by loading on it this duty which might well be placed on some other agency? I get your viewpoint and I realize why these gentlemen feel that the Supreme Court might better do this, but does it not, by so doing, bring sometimes criticism? While it might be undeserved, will it not be harmful to the state of mind to the laymen? I simply wish to ask that question?

CHAIRMAN CUTTING. Anything further to be said?

Mr. JARMAN (Schuyler). I introduced in this convention, I think, the first proposal providing for the appointment of judges of the Appellate Court, and in doing that I approached this question from the sole point of efficiency. It is always the trouble of democracy to get efficient administration and at the same time give the people proper power. Now in the appointment or the election of judges there are three theories, prevailing upon the people and especially lawyers; one is that the judges shall be elected by the people, the second is that they should be appointed by a higher court, and another is that they should be appointed by the Governor of the State, similar to the appointment of the Federal judges by the President of the United States. Now those three theories were presented to this committee, I have no doubt. Now the committee, of course, wants to reach a proper conclusion, and I have no doubt to some extent yielded to some kind of a compromise. At the present time the judges of the Appellate Court are appointed or designated or selected by the Supreme Court. Of course, I understand they are taken from the circuit court bench, and the circuit court judges are elected by the people, but there is no direct election to the Appellate Court by the people at the present. Now I have no doubt at all in my own mind, in approaching this question, that here is a chance in democracy to give an opportunity of appointment of judges, and at the same time to ascertain if it is a better plan than the election of judges, and it gives an opportunity in a position where the election of these judges is not directly taken away from the people. Now we all know, as lawyers, that the best judges in the world in every country are

judges that are appointed. Now I am not opposed to the agents of the people doing everything, but here is an expert position, or a position in which something is to be done by expert men, and why shouldn't the greatest talent and the greatest ability be selected to perform those duties? What is the position now, do the people elect the judges? Why no, they do not. Under the primary law what do you do? You provide a county central committee, what you call a convention of officers, to appoint the delegates to a general convention nominating the judges. Do the people have anything to do with selecting them? Not one thing in the world, and they don't do it now, but of course they submit the candidates on either side. The people could have a possible right, and a possible chance of selecting one of the two men, but that is all they do. You come back and say that the people select the members of that central committee; you know that is not the case. It resolves itself into, that a few men in each community select the judges that we have now, and the men who do that selecting are not competent to select them, but are influenced by local matters and not by the ability of the men who sit and act as judges. Now, in that situation isn't it fair for us to try out this proposition of selecting these judges. It seems to me it is a great constructive provision in this report of the committee.

Mr. GEE (Lawrence). Coming to your convention and acting as a member of this committee, I came loaded to the guards with the idea promulgated in this chamber today, to leave everything to the people and trust them in all of the selections of your judges, but after hearing the reasons and after trying to get some information as best my limited ability allows me to, I came to the conclusion that we make no mistake when we allow our Supreme Court to appoint this branch of our judiciary. The only reason I have heard urged with any degree of force, it seems to me, that you fear the personnel of the Supreme Court of your State. That you fear that you will build up an autocratic body in your Supreme Court, that will militate against your rights as citizens of your State. Now, gentlemen, that is a charge easy to make, but most difficult to prove. I stand here voicing the sentiment, seeking some little opportunity to know in other courts of other States, and I am here to tell you what little experience I have had to give you, that the Supreme Court of Illinois stands high. We now submit to our Supreme Court our lives, our liberties, our property, and generally we are content as citizens to obey their voice. In the last analysis the Supreme Court determines the rule of action that guides us as to the law; is the ultimate last resort as to what the law is and shall be in Illinois. As triers of fact the people will always rule, and the Supreme Court or the Appellate Court seldom if ever changes a question unless it is manifestly a mistake. We want first, I think, our rules of law to be uniform and certain. Who can make them uniform and certain but good, able judges? Having the information at first hand, what power can select with better means of knowledge of the capabilities of the men on the appellate bench than the Supreme Court itself? It may review the decisions, it may be of the Appellate Court, it is cognizant of the rules and doctrines or law laid down by the Appellate Court. It has knowledge at first hand, more or less, of the ability of every lawyer in Illinois, because the lawyer that does not some time in his life's history and business get before the high tribunal has not progressed very far, so that the court judges and the lawyers of the Supreme Court have ample means of knowledge to make this selection. If we can trust the Supreme Court with everything we possess outside of selecting a judge, and serve us, well what reason have you gentlemen who want this question of election in this article, what reason have you to say that on that one question alone we cannot trust the Supreme Court. You have said to us we trust the court in making the rules of procedure, but when we come to the question of selecting judges you call a halt. Why? Because, in my opinion, largely a desire, it may be, of some man to get up in the football of politics, to get his name on the

ballot and run for the position on the appellate bench and I am here to say, in my opinion, many men would have a chance to get on the appellate bench by the elective method that would never have a shadow of a show by the appointive method. I will concede that, but to the people at large, isn't it better, for the sake of security of our institutions and property rights that those men that are not qualified by years of study and application, that can go out on the ballot and beat men of qualifications, isn't it proper that they fall by the wayside, and proper men put on the bench? Now the Supreme Court is capable, in my opinion, of making their conduct subversive to the interests of the people. They have done their work well. And getting behind the popular sentiment that I have heard expressed here and elsewhere, that we ought to elect everybody, I believe that the Supreme Court would be as careful to select the proper men, more careful than any convention of lawyers that elect the candidates, or any primary election that men did not take any interest in, and fewer incompetents will get on the Appellate Court bench by the appointive power than by the elective power.

We have heard it discussed, who shall make the appointment, and a great fear was expressed, and the committee took that view, to leave one man in Illinois to make the appointment might build up a political machine. I do not believe, men, that we have a right to charge that the Supreme Court would for a moment countenance or think of building up a machine for political or personal purposes in the appointment of any judge. I believe I can claim, in the Supreme Court of Illinois, that when great stress have been placed before it on political questions for the most part, at least, they have come clean as to what the law is regardless of partisan views at all. We have got to trust somebody, and I am of the opinion that the men who achieve what to a lawyer, as I see it, is the position of life, to be a man in the position of Supreme Court judge is too big to let partisan views entirely control him in the selection of a judge of the appellate bench, but will take qualifications first. It might turn out, gentlemen, like in the Federal procedure, that when one party is in power men of that party would be selected, but the Federal judiciary stands as a monument in the history of our Nation by the appointive selection of having able, good judges, competent men. Now we have got the Supreme Court elective, we have got all of the circuit courts, and all of the courts of the county, and we are asking now to try, so far as Illinois is concerned, a progressive measure, I might call it, to allow our highest tribunal to select the judges of this intermediate court. The circuit bench, now by appointment, men are taken from it to make up your appellate bench, and if they can appoint elective circuit judges, what reason can you advance they could not in the first instance appoint a man from the bar or a man that had been a judge or might be a judge perhaps. I think now, men, there is no mistake made. I want to keep just as close to the people as possible, but our experience has been, and I am calling attention now more directly to you what in my own circuit happened, we have to drum up and get enough delegates to make a nomination for circuit judge, and when the election comes around the people, that you are so afraid will lose out, won't go to the elections, and I don't think my experience has in the past few months been different from what other people experienced and expect themselves. I have talked with people and I have not found that people are talking against this question, and when they ask me what I am going to do with the Appellate Court, I said we are going to try and improve it and have it distinct from the circuit court so far as its personnel is concerned, and let the Supreme Court appoint them, and I have not heard that anybody kicked on that proposition. I think, gentlemen, we will not make any mistake if we adopt this because it has worked out in some States, some I know have been appointing all their judges, and they get along well. I want to close by calling your attention to a thing I think is important. I would like to have the ermine taken out of the football of politics. I would

like to have a man who has spent years in accumulating a knowledge of the land, and the best training of that land could be selected by a higher tribunal that knows most about making the selection, because I know that many men with the attainments most desirable will not enter into the struggle and mire of partisanship to be nominated and take the risk of the election and to be a judge. By the manner of the appointment from the Supreme Court bench we can commend to the Appellate bench the best that we have in our State. I think we can get more desirable men in many instances, and I don't think we will have the people suffering in the least, because their interests will be cared for as carefully as the Supreme Court has cared for it in the past.

Mr. MIGHELL (Kane). Mr. Chairman, I move we recess until two o'clock.

(Motion adopted.)

(Adjournment until two o'clock.)

2:00 o'clock P. M.

Committee resumed pursuant to recess.

Mr. WALL (Pulaski). Mr. Chairman and gentlemen of the committee: The question that is presented to us here, that is now under consideration, to me has been one that is pretty hard to solve. In fact, I had not given it any consideration whatever until it came up on the floor of the convention this morning. I am inclined, after such deliberation as I have been able to give it, to vote to support the action of the committee.

I believe that it is really and fundamentally a question of conscience against politics. I don't think any man can say truthfully and in his heart that the ability and integrity and the usefulness of the Appellate Court can be enhanced by its election. In other words, I believe that all of us upon mature deliberation would conclude that we would get as high, if not a higher, class of judges, and therefore as able, if not an abler, forum if the Supreme Court appointed these men.

We have got to have faith in somebody. If we do not have faith, and have an abiding faith in the ability and integrity of the Supreme Court of the State of Illinois, then in whom shall we repose that splendid doctrine of faith? Now, it will be remembered that we are not taking away from the people anything which they now have by this action, nor are we changing the court from its position in the classes of courts in the State. In other words, it is an intermediate court between the nisi prius court and the Supreme Court. It is a court of appeals, the same as it always was and has been throughout the years of its existence. The people have acquiesced in, and I have heard no objection from any source to the appointment of the Appellate Court up to this time by the same power that will appoint it under this article. Then why should there be a question raised as to taking away from the people certain rights that they might possess if we give them the right to elect?

It seems to me that any delegate to this convention or any other person friendly to the adoption of this new Constitution would not go out and purposely raise a spurious argument that would have no place in the issues arising in the election by saying to the people that "they refuse to give you the right to elect these judges." Gentlemen, if this convention in the other articles in the Constitution, the legislative or executive articles, had singled out a particular State office and said that that office should be appointive, and all the rest elective, I should have opposed that, because the same reasons do not exist and never can exist in the political machinery of the country as affecting the rights of the people in the election of State officers as necessarily exists in the appointment or election of a judiciary.

The high and noble purposes for which they are elected, the fact that in their hands is the destiny of the property, and the right and the liberty and the lives of citizens, the fact that all of their duties are judicial and

not administrative or legislative, the fact that in the performance of their duties they sit in a forum of justice unpolluted by any influence, other than the administration of those duties, singles out the judiciary separately above and beyond all of the other officers of the State.

Personally, if I could have my way about it, I would say that every judicial officer of a court of record should be appointed, but that is impossible, impractical, and not an issue here. I do say, however, that since we are taking away no right that the people now have, and since upon our conscience, if we act upon it, we must conclude that the ability and integrity of that court will be as high, if not higher, than if elected, and since in addition to that we believe that the courts of the State should be removed entirely from politics, and since if we act upon our conscience in the matter and not as mere expedients, not as mere opportunists, not as believing that it may be popular to raise up a horde of candidates here to run for office, but, on the contrary, that we are going to build up a great system that is to be removed as far as possible from politics, is it not a duty we owe to the people, a higher duty than the duty of expediency, to vote in support of this committee? I have just thought about the matter a little while, but these are the conclusions I have arrived at, and I shall with pleasure support the report of the committee.

CHAIRMAN CUTTING. The matter of the amendment offered by the gentleman from Cook, Delegate Morris, is before the committee. Is there anything further to be said in the matter of that amendment?

Mr. DEYOUNG (Cook). Mr. Chairman, and gentlemen of the committee: Not the least of the problems which the committee on judicial department had before it was the determination of how the judges of the Appellate Court should be selected. The committee, consisting of fifteen members, all of whom, of course, have not been in attendance, but which was as largely attended as any committee perhaps, in this body by its membership, had among its members those who advocated with zeal the election directly of the judges of the Appellate Courts.

The report of the committee upon this point is unanimous. From every quarter from which we could derive information it was invited and received. Men came from all parts of the State, either directly or by communication, and expressed their views upon this question. Members of this convention not members of the committee likewise were welcomed to give their views upon this subject. The consideration which the committee gave to that was such as it thought was in the interest of a judicial system of the highest and best type when it concluded that their selection by appointment was perhaps the best solution of a problem inherently difficult. I recognize the general demand for the appointment of judges, and when we consider that the report of the committee on judicial department provides for not less than the election of 232 judges in the State, 101 county judges, 51 circuit judges, which number may be increased by a later apportionment, the judges in Cook County, 73 in number, and 7 or 9 judges of the Supreme Court, as the case may be—if it shall be 9, then 234 judges—are to be placed in their official positions by the voice of the electorate directly. It is only with reference to 12 judges and possibly 18 by the addition of two branches that the power to appoint has been invoked by the committee on judicial department.

Let us look into the reasons why: All of the other courts for which judges are to be elected are courts, at least to some extent, if not altogether, of original jurisdiction. Even the Supreme Court itself is under this proposal, as well as under the present Constitution, vested with the power, authority, jurisdiction, which is original in many causes. It is the Appellate Court alone which is strictly a court of appeals, which is to exercise not an original, but purely and exclusively an Appellate jurisdiction.

The framers of the present Constitution who gathered here 50 years ago provided for the subsequent organization of courts of appeal. These Appellate Courts are courts not primarily courts independent of a court of last resort, because we all recognize that the ideal judicial system would

be one court for the trial of causes, and one appeal, but it is not possible with the population and the volume of business which we have in this great State to have just a single court of last resort, or a single court of appeal which can review all causes.

In other words, it became necessary to provide, as even the framers in 1869 and 1870 saw it would become necessary, to continue a court which in a large measure is merely a court of assistance, or an assistant court, if you will, to the Supreme Court itself.

Now, of course, I recognize that those who raise their voices in behalf of the election of judges for every possible judicial office are certainly as sincere as any of those who seek to depart from it in some slight respects; their convictions are just as sound and just as strong, perhaps as are ours with reference to this particular change or exception, but the Appellate Court is created or is continued, if you will, by this report merely because it is impossible in the nature of things for the Supreme Court to dispose of all the appeals that may or that ought to be taken. What body in this State is more capable, charged with the responsibility of the administration of justice, of a high performance of that duty, than the Supreme Court of this State itself? Does it inject politics into this system? We fail to see it. Only 18 judges at most, including two branches in Cook County, are to be appointed, and appointed by men who are familiar with the kind of work to be performed, much better equipped and informed than any electorate can possibly be.

Now, I know it will be said that we are taking something away from the people. The gentleman from Pulaski, it seems to me, has answered that and answered it so fully and completely that nothing remains to be said on the other side. The Appellate Court today is selected by the Supreme Court, and has been ever since the organization of those courts in 1877. True, the selections are made from a comparatively limited circle, but when a circuit judge is elected, his constituency has not the slightest idea that this judge elected as a trial judge may in a very short period or after a short period be withdrawn from the circuit court and placed upon the Appellate bench. Time and time again it has been done. Who ever has found that in these selections, withdrawing a judge from the circuit court and placing him upon the Appellate Court, there has been the charge of political favoritism or politics, if you will, in the slightest degree?

The gentleman from Bond asked the question, "Has not the Supreme Court of this State in every case where a party question was involved always decided it upon party lines?" I answer that the Supreme Court has not. I have too high a respect for the court of highest resort of my state, to charge it with bringing into its decision the mire of politics. I will cite an incident way back in 1841, when the court consisting only of three members, and when the Whig party in this State was dominant, and the Democratic party then had come into the majority of votes, and wanted a decision from that court, and when in order to get that decision in order that it might come into the control of the State government, the legislature of this State, which then had the power, increased the membership of this court by five in order that the men of their complexion might constitute a majority of the court of Illinois, but the three Whig members of that court decided that case not in the interest of the Whig party. They sustained the high standard of the Supreme Court of Illinois.

There never, perhaps, in the history of our State was an instance when more pressure could have been brought to bear upon the court to decide according to party lines, when the whole membership of that court was of a particular political complexion.

No, it shall not be said to me that the Supreme Court of this State has always decided issues according to party lines. I have too much respect for its membership now and for its predecessors. Upon that bench there sits today at least one of the greatest judges in the American Union, and I cannot be brought to think that the Supreme Court of this State, charged with the high responsibility not only of interpreting the Constitution, but

many times each year adjudicating causes where if any influence were brought to bear, influence that might be brought to bear upon things much more important than the selection, if you will, on an average of only three judges a year, who have no patronage but who are selected in order that Appellate Court duty may be performed, that the Supreme Court itself may be assisted.

Now, I have more faith in the membership of that court, which is the court of last resort for our great commonwealth in so many causes, and from which a review by the federal Supreme Court is limited to very few causes indeed.

Why were these judges selected under the present Constitution from the court then to be organized later on? Did not the men in 1869 and 70 who carried the election of judges to almost an extreme, not only judges but public officers, didn't they in that day—and there were on the committee of judicial department in that body, as well as in the membership of that body, some of the greatest names in the history of Illinois—didn't they foresee that this Appellate Court was something different than a trial court, or a court of first instance. They recognized that it was a court that might simply be called into being to assist the court of last resort in the performance of what was properly its duties. Should not the Supreme Court of Illinois, an appellate body, having a wider knowledge not only of the necessity of such a court and the duties which it has to perform—is it not infinitely better fitted for proper selections than any electorate can possibly be?

Now, I yield to no man in the preservation of republican institutions, but I fail to see the force of the argument of the gentleman from McDonough who says, or at least by implication, that we will trample republican institutions into dust if we give to the Supreme Court of Illinois the last expression from the head of the judicial department, the selection of some, a very few, of its assistants. Is it the instance of one department of government trampling or encroaching upon any other branch? I fail to see it. Certainly, Appellate Court judges are members strictly of the judicial department.

Yes, the fathers a half a century ago saw the necessity of creating a court of intermediate appeal, that should be composed of men selected as they saw in that day from judges, but we know the criticisms that have been urged. You take the district in which the city of Rock Island is located. Their only three judges have been withdrawn from the circuit court and placed upon the Appellate Court, I believe, in this district. You know as well as I how it has crippled the performance of circuit court work in that district. You reduce your circuit court judges by a little over a sixth by the present arrangement. The Supreme Court may still continue to select its judges from the circuit court, but here is the advantage of this provision. By doing so the offices of the circuit judge ipso facto becomes vacant, and the appointing power until the next election, the annual election under what we propose to do, would fill that circuit judgeship without the cost and expense of a special election.

You have your circuit judge, and you could have a circuit judge becoming an Appellate Court judge, or if that is not the wisdom or judgment of the Supreme Court, members of the bar may be brought in to constitute this court. Will the Supreme Court select men who are not competent, men who by training and experience are unfit to be judges of Appellate Courts?

What is the experience elsewhere? Have we not in the history of our country found selections from the bar to the very highest court in the land? The chief justice of the Federal Supreme Court who came from our own State about a generation ago had never been a judge upon the bench but he was elevated by the President from the ranks of the bar to the highest judicial place not only in this country, but the most powerful in all the world. There are other instances which I might cite. Is this extra range which is given the Supreme Court to militate against the character and ability of the personnel of these Appellate Courts? Hardly so.

Ah, but they say the people ought to elect all our judges, and a half century ago they provided that the judges of the circuit and Supreme Court should be elected at separate elections, so that they might be held up to view, their character and their qualifications might have the utmost discrimination on the part of the voter without being confused by presidential or a gubernatorial or congressional election, if you will, and what has been the history? Have the people of this State evinced such a jealousy of this right to elect as they have in other cases? Let us examine the record just briefly. I am speaking now of the full term first.

We will turn to the fifth district, the election on June 3, 1915. Here a judge was to be elected to the highest court of Illinois, and here we have a Supreme Court district, which under the census of 1910, eight years before this election took place, had close to half a million inhabitants, and how many electors went to the polls to select a judge of the Supreme Court in the month of June, the only election that was held at that time? Here was a judge of the Supreme Court to be elected. Now, we have heard so much here about the jealousy of the people, their holding on to elect their judges. What do we find? We find the successful candidate at that election, now a member of the Supreme bench, in a district which had nearly half a million of population, probably upwards of that at the time of the election, he received 19,922 votes, a judge of the Supreme Court of Illinois.

Let us turn to another district, just for instance. We will turn to the district in which the City of Rockford is located, a large city, one of the leading cities of Illinois, with a very intelligent constituency, people interested in the proper administration of justice and in the high character and capacity of their judicial officers: Judge Welch, the leading member of the Illinois bar, was a candidate and he received in that district 8,051 votes, in a judicial circuit that had more than 150,000 of population in the year 1910.

Oh, yes, if you take away the election of Appellate Court judges, of an intermediate court of appeal, you trample republican institutions under foot. Yes, the day will dawn when the rights of the people will be frittered away, institutions for which our fathers fought will crumble into dust.

Have we any precedents for what this committee proposes? What are the courts in this Union that have received by bench and bar, as well as layman alike, the greatest respect, and where is vested the greatest confidence? Is it in those courts of last resort which are elected in some of these new States at frequently recurring periods? Not at all, there can be no controversy about that subject. What is the State court which uniformly, the one that stood out—and when we do not consult the authorities of our own Supreme Court, what state is it that we lawyers like to cite in support of our contentions? Surely there is none that we cite before Massachusetts—and Massachusetts from the early day—and when you mention Massachusetts, I think that perhaps she made her contributions in the way of establishing and maintaining our form of government. The home of James Otis and John Adams and Samuel Adams and all the rest is not to be forgotten when we speak about founding and maintaining the republican institutions, and yet has there been in the long course of the history of that patriotic State any serious demand for the election of judges? Even in the recent Constitutional Convention of that State, which sat for about two years, as we are told, there was not even any serious attempt to change from the appointment to the election of judges. And I cite this, not because I am here advocating a change. I simply cite it that in this particular instance, where the people have not elected their judges in the past as Appellate Court judges, that we are not making any inroads upon what the people today possess or even what they ask.

Massachusetts, in which all, from justices of the peace to the members of the Supreme Judicial Court of that State are all appointed, where the judgments of that court are entitled to such respect that we all cite them when we have the opportunity to do so. No, anybody who has visited the

courts of Massachusetts knows that they are almost the last expression in the efficiency, as well as the proper administration of justice in the United States.

How about the courts where judges are elected? Take the most populated State in the Union, where the members of the Court of Appeals are elected for 17 year terms, and those in the trial courts of New York City, in the Supreme Court, for 14 year terms, but the Court of Appeals, that disposes of a larger volume of business perhaps than any other Court of Appeals or Supreme Court of the Union, the people there, even of the metropolis within that state, twice as great as ours, they have not found it wrecking the judicial system by electing them for long terms, not at all.

Ah, but they say, "The power to appoint ought to emanate from another source than the judicial department itself; this will bring the judges into politics." I don't know that there has been any politics in the assignment of circuit court judges in the past. I don't know that there has been any politics in some of the appointments which the Supreme Court has made. I do know that if ulterior influence were to be brought to bear upon the Supreme Court, there are many times and there are many causes in which a decision one way or the other will give rise to consequences even infinitely more important, infinitely more disastrous than the selection of any of their men to sit as Appellate Court judges. The Supreme Court has not been charged and cannot be charged with ulterior purposes, or ulterior work in any such respect, and it seems to me that the charge that the Supreme Court by selecting its own assistants will go into politics is a charge that has no foundation at all.

I know in some quarters it is quite unpopular to invoke the experience across the water, but we have adopted the common law system as it stood in the year 1607, we imported it over here and adopted by the legislative branch of the government's enactment as it then stood, with a few enactments, and with such changes, of course, as the legislature has since made. We turned naturally to that country for our system, and we should not shut our eyes to it. Any one who has at all studied the English system must recognize that we in Illinois can learn certain lessons there. There the power to appoint inferior judges is lodged not in an outside part of the government, but in the courts themselves to a very large extent, if not altogether.

These are instances, it seems to me that are in a large measure conclusive against some of the arguments that have been advanced here. No, what we want is an independent judiciary, we want a judiciary that is truly blind to any interest or to any clamor which the hour may bring forth.

You remember the instance of Lord Mansfield when he was to determine the guilt of Wilks who had been sent to the House of Commons, and who had been ousted by that body for certain crimes and misdemeanors, and when he came before Lord Mansfield for judgment, you remember how the populace of London entered that court and how they threatened his life, and how that mob went from that court room and burned down his house with the largest private library in all of England, and almost destroyed two or three members of his family—you remember what this great judge said, in substance, whatever influence might be brought, he knew only one thing, he was an independent judge, and all the demand and influence of a crowd did not sway him for a single moment. The name of Lord Mansfield lives and will continue to live as long as justice reigns anywhere. His detractors have long since been forgotten.

Let us not destroy in this State, gentlemen. Let us erect an expert Appellate Court. Let us continue it and let us remember that the people have a principal voice in the selection of all of their judges. I believe, gentlemen, that the amendment should be defeated.

CHAIRMAN CUTTING. The question is upon the amendment.

Mr. MORRIS (Cook). Mr. Chairman, I desire to make a few suggestions in relation to what has been said by the supporters of the committee's report. And I do not want to misinterpret any of the remarks. To the

end that I might be correct in every particular, I have sought to jot down some of the statements to which I desire to reply.

In beginning, let me suggest that, say whatever you will, cover it up with all of the eulogistic remarks concerning the Supreme Court that you may, there underlies this proposition in the committee's report that seeks to take from the hands of the many the power and place it in the hands of the few. Now, you can run around it and you can talk around it and you can make eulogistic remarks concerning judges just as much as you please, but that is the effect of the adoption of the committee's report. You take from the hands of the people this power, and you place it in the hands of the few.

If the remarks made by many of the gentlemen supporting the committee's report amount to anything, and if you follow them to their legitimate conclusion, we ought to appoint all of the judges. There isn't any question about that in the wide world. The learned delegate from Kane said that the Appellate Court was practically an assistant court to the Supreme Court, and that the Supreme Court was called upon to pass upon and review the decisions of the Appellate Court, and therefore they ought to have the power of appointing their servants. I do not get the logic and the force of that statement, because the circuit court has its decisions reviewed by the judges of the Supreme Court. We have already provided for a direct appeal in a large number of cases from the circuit not to the Appellate, but to the Supreme Court, and if because the Supreme Court is called upon to review the decisions of the Appellate court, the Appellate Court judges ought to be appointed, the gentleman mistakes his position, and he ought to be in favor of appointing all of the judges of the circuit court, and every judge whose decision may come before the Supreme Court for review. Now, that is the logic of his suggestion, and you cannot get away from it.

Mr. GREEN (Champaign). Do you realize that the circuit court has no final jurisdiction, and that the difference lies in the fact that under this provision the Appellate Court is to be given certain final jurisdiction while the circuit court's decisions are all subject to review?

Mr. MORRIS (Cook). Yes, and that makes it worse, because they may get rid of the burden of authority by absolutely conferring upon the Appellate Court final jurisdiction in cases that they do not want to have come before them at all, and a hundred times would I rather have them appoint judges whose every decision must be reviewed by the Supreme Court than to have them appoint the judges whose certain decisions, subject to the rules of the Supreme Court, only could be reviewed by that body, and that is my answer.

Now, it is suggested here by one of the gentlemen that the judges of the Supreme Court will be better acquainted with the lawyers and with those who seek appointments, and that therefore we will get better material. A long time ago the people of this State listened to just such specious statements, and they thought that we would get a splendid number of justices of the peace in Cook county if we authorized the appointment of justices of the peace by gentlemen on the bench, namely, the circuit court. They came and they said to the authorities and the powers that be, let the judges of the circuit and superior court appoint the justices of the peace, and we will only have first class justices of the peace. They will select good lawyers, they will select men who are qualified and capable of performing the duty. Did they do it? They did their best, but they so over-burdened us with unpopular men that we came down here and had the justices of the peace of Cook county abolished.

Mr. DEYOUNG (Cook). The justices appointed were still under the fee system, were they not?

Mr. MORRIS (Cook). The justices appointed were still under the fee system, but we did not get as good men appointed by the judges of the circuit and superior court as the people had theretofore elected.

Mr. DEYOUNG (Cook). Were not the justices of the peace in the City of Chicago at least of as high character and received as much respect as the justices outside of Chicago in Cook county, elected by the people?

Mr. MORRIS (Cook). I don't know, except if I take what took place as my guide I would say no, because the people outside did not come down here and clamor to have the office of justice of the peace abolished as we did in Cook county.

Mr. DEYOUNG (Cook). Isn't it a fact that the justices elected outside of Chicago would have jurisdiction throughout the country, and that most of the criticism which you as a member of the bar know, arose, and which appeared in the press from time to time, arose with reference to the justices outside of Chicago, who would compel a litigant from one end of the county to appear at the other end, probably at 8 o'clock in the morning?

Mr. MORRIS (Cook). I know from the forty years I spent at the bar that there was just as much criticism concerning the justices of the peace who were appointed by the judges of the circuit and superior court as there was of the justices outside. It is true that litigants in Chicago complained of what they themselves were doing, namely, bringing suits before outlying justices of the peace, but nobody pretended for a moment that the learned judges of the circuit and superior court gave us any better selections than we had been getting prior to the time that power was conferred upon them.

Mr. MILLER (Cook). Is it not true, Mr. Morris, that after the organization of the municipal court system, quite a number of these former justices of the peace in Chicago, chosen by the judges, were elected to the municipal bench and that they made as high class judges as there were on that bench?

Mr. MORRIS (Cook). Yes, we put one former justice of the peace on the circuit court bench, and they tell me that he never crosses the river lest somebody will mention something appertaining to a civil suit.

Mr. MILLER (Cook). And is this not true, that when the justices of the peace were appointed by the judges, notwithstanding the fact that they had every inducement held out to them to be dishonest by this fee system, that there were a large majority of them very high class men and high class lawyers?

Mr. MORRIS (Cook). Oh, yes, just about as high class as the people elected. They were on a par. There wasn't any improvement. I am not undertaking to generally criticize all of the J. P.'s of Cook county.

Mr. MILLER (Cook). Will you name some of those that were elected before 1870, or after, that you personally knew were so high class?

Mr. MORRIS (Cook). Well, I want to say this, that I do not propose to put in the records of the proceedings of this convention criticisms by naming individuals or even making eulogistic remarks of those who are gone. My method of dealing with a man is by telling him what I think of him to his face, and not by saying something that will go down in the records of any convention where he has not any opportunity to answer, or any opportunity to say a word either for or against himself. I decline to particularize and mention individuals, because some of them are dead and no man can say a word for them. It is a popular thing in certain places to strike at a man when he cannot strike back, but I have never felt that that was the way to do. I leave that to other gentlemen.

Mr. MILLER (Cook). May I ask a question? The question I asked, Mr. Morris was not to strike at any one, but to eulogize some one by naming some of the excellent men that you can who were justices of the peace before 1870.

Mr. MORRIS (Cook). That would be wholly foreign to the issue here, and besides, if I did, I would be obliged to also name 50 or 60 gentlemen who did not come up to the mark, who were named by the judges of the circuit and superior court. I could not do the one without also doing the

other, for the purpose of showing you that the manner of appointment resulted just the same, about.

Now, then, they say it will take the Supreme Court out of politics. I suggest that it will put the Supreme Court in politics. It used to put the circuit and superior court in politics when they named the justices of the peace, and it will put the Supreme Court of this State in politics if you give them the power to name judges of the Appellate Court. I do not care where you put a man, whether you make him President of the United States or Chief Justice of the Supreme Court, he is after all just a plain human being, striving to live up to the high position that he occupies, but he cannot always forget himself.

Now, there is a gentleman in district number one who is thinking about being a candidate for judge of the Supreme Court. A gentleman here is one of the justices of the Supreme Court. The best way on earth to get rid of him and to get rid of any competition and to get rid of this troublesome aspirant for that position is to appoint him one of the judges of the Appellate Court. No politics in it at all, but you get rid of that gentleman who is clawing around in the district, about to get your job. Do you think that the learned gentlemen who are placed on the Supreme Court would not avail themselves of the opportunity of saying, "Here is a splendid lawyer, a most capable man, and therefore I am in favor of making him one of the judges of the Appellate Court." And everybody would say, "Yes, he is a fine man," but back of it and underneath it is the desire of that learned gentleman of the Supreme bench to get rid of a fellow who is about to move him out of his seat.

Now, that is all there is to that. And we would say, "Well, of course, Bill got the appointment, he was running that fellow a little too close."

How else does it put the Supreme Court in politics? Mr. A and Mr. B are very learned lawyers in a district, and they have some influence. They suggest to the judge, who is a candidate for election, as I suspect was often suggested to judges of the circuit and superior court, "Now, I am for you, and when you get elected, I don't want you to forget. I shall be an applicant for one of the judgeships of the Appellate Court." Oh, he is a judge and he is too high minded to make any political agreement or understanding of any kind, who is changed in the twinkling of an eye from an ordinary human being, lawyer at that, to a wonderfully different individual, an angel. "Oh, stand aside, I want none of that, I cannot make any deal with you." Oh, no, he doesn't say that. He says "Now, I will tell you, I will do the best I can. You can count on me, but how about A and B?" He is getting ready, of course, to shift the burden. He is getting ready to tell you that he stood all right, but that he could not put it over, and the result is that you have one or two lawyers who are aiming to get Mr. A elected judge of the Supreme Court to the end that Mr. A will be instrumental in having him appointed one of the judges of the Appellate Court.

Now, I am not very much of a politician. It has long ago passed by me, but then I do know that we used to find out how a judge was going to stand on the J. P.'s, and if he was not going to stand right, we said, "Thou shalt be no longer." In many instances we were much more interested in who was going to be named justice of the peace in certain towns than we were who was going to be named the judges, and as a consequence the election of the judge of the circuit court was largely dependent on how he was going to vote, or we thought he was going to vote, on the selection of the justices of the peace. Judges of the circuit court have been elevated to the Supreme Court.

Now, this provision goes farther. It not only gives judges of the Supreme Court the right to appoint judges of the Appellate Court, but indirectly it gives them the power to appoint judges of the circuit court. You say, "Well, how?" They are not confined to those who are not on the bench in the appointment of judges of the Appellate Court. Therefore, Mr. A, B

and C are selected for their learning and their ability and their experience as judges of the Appellate Court. They are all judges of the circuit court, and the gentleman has told you that creates a vacancy. Is the vacancy filled by election? Oh, no. It is just another way of getting a judge of the circuit court appointed.

Mr. DEYOUNG (Cook). Don't you know that the appointment in most cases, under the suffrage article, will be for a period only of 90 days, that the election must follow at the next annual election of a circuit judge?

Mr. MORRIS (Cook). Yes, and I also know that if you put a man on the bench and let him serve a little while, the general disposition on the part of the community is to continue him there. You give the weakest, humblest member of the bar a position on the bench for a little while, and then the newspapers say, "We better continue the same gentleman in office." It is a great leeway, and I was following your argument when you said that they were not confined to those outside the judiciary, but might select members of the circuit court; and I say this, that if they selected three members of the circuit court from any particular district, under your construction—and I assure you that you know much more about it than I do, and I take it that your construction is absolutely correct—there would be a vacancy, and those three vacancies of the circuit court would be filled by appointment. Any question about this?

Mr. DEYOUNG (Cook). And then the people would elect them after that.

Mr. MORRIS (Cook). Yes.

Mr. DEYOUNG (Cook). And they would be elected by the people.

Mr. MORRIS (Cook). Oh, finally you would get back to the people, of course, but you would be getting farther and farther away each time from the people.

Mr. DEYOUNG (Cook). But the people would elect the judge at the very first election that followed.

Mr. MORRIS (Cook). Oh, that is true, because you might say the people elect the judges of the Supreme Court. They do, and therefore you say they elect the judges of the Supreme Court, the judges of the Supreme Court are the servants of the people, and they appoint the judges of the Appellate Court, and therefore the judges of the Appellate Court are elected by the people. Now, I cannot follow that kind of an argument.

Mr. DEYOUNG (Cook). Then you are finding fault now with the election of judges by the people, as I understand it.

Mr. MORRIS (Cook). No, I am not, and you don't understand me that way, if I understand you.

Mr. DEYOUNG (Cook). I certainly do.

Mr. MORRIS (Cook). So that indirectly you would not only enable the judges of the Supreme Court to appoint judges of the Appellate Court, but you make it possible for them to create a vacancy in the Appellate Court that will be filled by appointment, and you once get the man in—now, you gentlemen live and breathe and have being, and you know what takes place. Once he gets in he is there, and you put the most ordinary man in an office and let him stay a little while, and he pretty nearly will lock and fasten and clamp himself to it until you cannot get rid of him, and then it is an unpopular thing to ask a lawyer to do anything against a judge. He may have a case before him, and he is afraid that he may be re-elected, and therefore he puts on the soft pedal and gum shoes and tramps around and don't say very much unless he happens to be one of those very foolish gentlemen who clamors and cries out, and then we say, "Brother So-and-So is beaten, you know; there is no use of him going before that judge."

Now, we have got to take things just as they are, it is not any use dodging them. I have sometimes dodged a judge myself, not very often, but once in a while I have dodged one because I knew that it would not do for me to go there before him, and if I did, I had the Supreme Court in

mind all the time and I was only there for the purpose of helping him make mistakes.

Now, I cannot lend my assent to the assertion that has been made here on the floor that the brightest and best minds that have adorned the bench in this State, or even in other States, have been those who were put there by appointment. We have lived a good long while in the State of Illinois, electing judges of the highest court in the land, and I say that some of the best men we have ever had, notwithstanding the fact that the President reached out and appointed a Chief Justice of the United States Supreme Court from among the lawyers who had never graced the bench—yet the brightest and best minds we have ever had on the bench have been those chosen and selected by the people. And it is perfectly safe to say that the people are just as competent to elect judges of the Appellate Court as they are to elect judges of the Supreme Court.

I cannot for the life of me draw the distinction between appointing judges of the Supreme Court and appointing judges of the Appellate Court. You say we want an independent judiciary. Do you think you get a very independent judiciary when he may be moved out of office at any time by the power that put him in? He has always got his eye on the Supreme Court, and his ear open wondering whether what he is doing is suiting them rather than wondering whether he is deciding a case according to the law as he understands it. Instead of making the judge of the Appellate Court independent, he is one of the most dependent creatures that you could put on the bench and call a judge.

The gentleman from Pulaski suggests that we must have faith in somebody, and I readily agree with him. We must have faith in somebody, but we are entitled to have a little faith in ourselves, the people. I have just as much faith in the ability of a majority of the people of this State or of any district to select competent men for judges of the Appellate Court as I have in the people to select competent men for judges of the Supreme Court. Will you point out the difference? Why won't they make just as good selections for judges of the Appellate Court as they will for judges of the Supreme Court? Is it a vote that we haven't any confidence in ourselves? Is it a vote that we haven't any confidence in the people to elect judges of the Appellate Court when with the next breath we say we are going to give to the people the right to elect judges of the highest tribunal in the land?

Now, we don't want to try the experiment, because if this Constitution is adopted, it will be a thing that we will never be able to get away from until a new Constitutional Convention meets, long after most of us have passed out and they bless us for the good things we didn't do rather than for the good things that we did do. It is safe to let remain in the hands of the people this right to elect every member of the judiciary. And that is the aim and object of the amendment.

Now, I think I have said substantially all that I care to in regard to this matter, but in conclusion let me say that no one has pointed out any good reason why we should segregate and put aside judges of the Appellate Court and have them appointed, and they alone appointed, when all the other members of the judiciary are to be elected. There would be some consistency in saying let us appoint the entire judiciary, but there is no consistency as I can see it in selecting these judges of the Appellate Court who in many instances have final jurisdiction, and who may, by the rules of the Supreme Court, be given final jurisdiction in matters, and electing all of the others. I would far rather have up a proposition submitting to the people the question of appointing all of the judges than to segregate a set of judges in this way and manner and have them appointed and make them assistants in a measure, dependent wholly upon the whim of judges of the Supreme Court as to their tenure in office, notwithstanding the provision that they shall hold for six years, because the other provision that they may be removed, and so forth, makes them always subject to the no-

tions of the Supreme Court. One of the things that makes a judge, in my opinion, absolutely independent is the thought that unless he is guilty of some crime or misdemeanor he is in that office for a given time and cannot be put out, and often times it is up to him to determine whether or not by a certain decision he will apparently jeopardize his standing with his community or not, and if he is a man, he says, "I will take the risk and decide the thing as I believe it ought to be decided." Here you almost put in a recall as to the judiciary. It is really a recall by the Supreme Court. If they don't do practically as the Supreme Court wills they should do, then they are recalled.

I think the people ought to elect the judges of the Appellate Court, and I trust the amendment will prevail.

CHAIRMAN CUTTING. The question is on the amendment.

Mr. MILLER (Cook). Gentlemen, there are a few words only that I would like to say on the subject of the pending amendment. It seemed to me that the learned gentleman from Cook who has just spoken was indicting the whole elective system. Personally, I have very much more confidence in the ability of the people to choose judges than he seems to manifest. He says that when a man gets on the bench for a few months or a little while that you cannot get him off. The people see him, he is on the bench, and they exercise so little judgment that if he is the weakest, poorest stick at the bar, they won't vote him out.

Now, gentlemen, one of the things that I am convinced of is this, that after the people have seen a man operate on the bench for a few years, that they are amply capable of saying whether or not that man ought to be retained, and I therefore say that notwithstanding I am for this report, I claim to have a great deal more confidence in the ability of the people to choose judges than the gentleman who has just spoken. I had nothing whatsoever to do with this section of the report, or any other section of this committee report, but this section does appeal to me as being a substantial subject in advance and having very great merit, and it seems to me the merit of this does not at all depend upon the merit of an appointive system of judges in general, so that on that question I will say but little, if any.

It seems to me that this plan can be justified and sustained wholly irrespective of the question of an appointment system in general, but before going on with the few words I have to say on that subject, may I say one or two more words in response to the gentleman who has just spoken?

He spoke about the justices of the peace of Chicago appointed by the judges from 1870 down to 1907. Now, of course, we all know that those justices of the peace were on the fee system with the outlying justices outside of those in the immediate center of the city; their very livelihood depended upon their granting favors to certain litigants who brought them business. In the center of the city it was not so much so. What was the result? Any lawyer of my advanced years, who has practiced in Chicago and is now sitting in this convention, will agree with me that there were not one but half a dozen or more very able men who ordinarily decided very justly, sitting on the bench of the justices of the peace in the center of the City of Chicago, notwithstanding this temptation not to do their best.

Where the scandal was was outside of the City of Chicago and among the justices in the outlying centers in the City of Chicago where they could not get enough business unless they would decide in favor of the man who brought them the business.

Well now, gentlemen, what would any of us think if it were proposed here to take away from the Appellate Court judges their salaries and give them a hundred dollars for every case they reversed and nothing for every case they affirmed? And yet, if we should do that, we would be adopting exactly the fee system that prevailed with the justices of the peace in Chicago under the appointive system. What could you expect? The wonder is that we had so many high class honest men serving as justices of the peace in Chicago, and if it had not been for the fee system we have had—

and I am inclined to think we had anyhow—probably the best justices of the peace in the United States right there in Chicago, and I have practiced before them right along before the Municipal Court, and yet we had some scandals there, and if we had not had the fee system, we probably would not have had a scandal in the whole thing.

Now, as I said, it seems to me that the merit of this proposal depends not at all upon the appointive system in general, but it has seemed to me, gentlemen, that this proposal may very well be compared to the system that prevails, for instance, in Nebraska. In Nebraska the Supreme Court appoints commissioners to aid them in the disposal of business. These commissioners appointed by the Supreme Court are appointed from the bar. They sit with the Supreme Court. Their duties and responsibilities while there are exactly that of a regularly elected member of the Supreme Court. What kind of men do you find sitting there as commissioners as a part of the Supreme Court of Nebraska? The very highest grade of men from the standpoint of ability and the standpoint of honor.

One example alone will suffice, and that is Mr. Roscoe Pound, now the dean of the law department of Harvard University.

No one so far as I have ever heard, and I have made inquiry, ever questioned the motives of the Supreme Court of Nebraska in making appointments of commissioners to sit in that court. No one, so far as I have ever heard, charged that they were actuated by any except the highest motives in making those selections, or that they ever made selections that were not of the highest character in every way.

It has been said here, and it seems to me with great reason, that the ideal system is one Appellate Court, one appeal. If this system should go through as provided in this report, it would amount in fact that the Appellate Court would sit as assistants to the Supreme Court, and why should there be any fear that the men appointed by the Supreme Court would be arbitrary or reactionary or dishonest or anything else that an Appellate Court judge ought not to be? Wouldn't he owe his appointment to the elective Supreme Court, responsive, if you please, to the will of the people? Wouldn't he owe his tenure to that same source? If he were arbitrary, if he were reactionary, if he were dishonest, if he were impatient, if he were lazy, if he were anything except a proper judge, wouldn't the lawyers of this State go to the Supreme Court and say, "Gentlemen, you are elected, you are responsive, you must be, of course, because you are elected, responsive to the will of the people, and to the lawyers, and you must remove this man. You are responsible for his being put on the bench and you are responsible for his retention there." Why, gentlemen, wouldn't that be just as ready a method to get rid of an improper judge as to turn him out at the end of his term?

The last gentleman who spoke says that having been there for a few years the people would say, "We must return him," and they would not know enough to turn him out. But the Supreme Court would. The gentleman who spoke last says that the ear of the Appellate judge would be toward the Supreme Court. As far as I am concerned, I would think a lawyer was but doing his duty by the court, his client and his country if he directed the ear of the Appellate Court toward the Supreme Court rather than to the election return. The Supreme Court would have the responsibility, and they are an elective court, responsible to the people.

The last gentleman said we are going to take something away from the people. We are not. Since 1870 the Supreme Court has selected the Appellate Court, and have they not done the selecting better than the people have done it? Have they not selected the strongest men of the circuit bench for the Appellate bench? If so, they have done the selecting with greater intelligence than the people have selected the circuit court. In New Jersey, we find the strongest chancery court in the United States. All of the vice chancellors are selected by the chancellor. We go to Massachusetts and we find one of the strongest courts in the country. They have supported more new advanced humanitarian legislation than any other

court in this country. In the City of Chicago last year we had 336 murders. In the City of Boston there were 10. I recited those figures to a distinguished criminal lawyer, and he said, "In those countries where there is the greatest freedom and progress, the number of murders is always higher." I concluded from that that he was unconsciously biased by reason of having given his life to defending criminals, in favor of electing every judge of every kind under all circumstances.

It seems to me that of all men in the world who need a strong judge, the poor and weak man needs him most. Who is it that imposes on the court? Is it the weak lawyer, chosen by the poor man, or the strong lawyer chosen by the rich man? It is the weak and the poor who need the protection of strong courts, and I hope that this committee report will prevail, and that the amendment will be defeated.

Mr. JOHNSON (Henry). We have heard both sides of the question fully discussed, and I therefore move that debate be closed.

(Motion prevailed.)

(Amendment lost. Section adopted.)

(Section 13 read.)

Mr. DEYOUNG (Cook). There is a slight error in printing in line 2. "Judges of the branch or branches," it should be instead of "of branches." I ask unanimous consent that the word "of" be changed to "or."

(Consent granted.)

(Section 13 adopted as read.)

(Section 14 read.)

Mr. BRENHOLT (Madison). I desire to offer the following amendment:

AMENDMENT No. 5.

Amend section 14 of proposal No. 383 by striking out the word "is" after the "county" in the first line and inserting in lieu thereof the following—"and city courts as now established are." Also strike out the words "and on the" being the last three words in said line 1 and also strike out all of line 2, 3 and 4.

Mr. GORMAN (Cook). I make the point of order that section 1 of the judicial article having been adopted, which determines where the judicial power shall be vested, we cannot now by indirection change that article and extend the powers that have already been determined.

CHAIRMAN CUTTING. The point is well taken. The amendment is out of order.

(Section 14 adopted.)

(Section 15 read and adopted.)

(Insert section 16.)

Mr. DEYOUNG (Cook). The last word of the section should be "observed" rather than "preserved", and I ask unanimous consent that the change be made.

(Consent granted.)

Mr. DEYOUNG (Cook). I move that section 16, so amended, be adopted.

Mr. JARMAN (Schuyler). Was there not an understanding that 100,000 should be changed to 90,000?

Mr. DEYOUNG (Cook). No. The matter was to be taken up with the gentleman from Rock Island county, but it was left tentatively as it stands. The limitation now is more liberal than under the present Constitution. I think if this were presented to the gentleman from Rock Island, comparing it with the present situation, he would readily assent to this, because I believe it fully removes the difficulty which this county presents.

Mr. HAMILL (Cook). As I understand it, there can only be as many judicial circuits as 150,000 divided into the total population. On the other hand, there may be some circuit in which there may not be more than 101,000. That would result, if such circuit should be created, in increasing the amount of the population in the remaining circuits.

Mr. DEYOUNG (Cook). Not necessarily. We have tried to follow the present Constitution, but have made the minimum less than before.

Mr. HAMILL (Cook). But if you should add three circuits of 100,000 each, then you have got 150,000 population over and above the amount necessary to make up the other circuits at 150,000 each.

Mr. DEYOUNG (Cook). If you will compute the number you will see that a considerable number of circuits above the present number can be created. An apportionment must be made at the session of the General Assembly preceding the election of judges, with the exception that it may be at the first session after the adoption. Judicial apportionment is not a patchwork of a circuit or a particular portion of the State. The whole situation outside of the County of Cook must be taken into consideration. And when you take the minimum now and compare it with what you have, the problem will very readily be solved.

Mr. RINAKER (Macoupin). Is the last sentence of this section intended to relate to the original division of the State into circuits, when the whole State is redistricted, or is that intended to cover a case that may arise after the redistricting has once occurred?

Mr. DEYOUNG (Cook). My understanding is that the re-appointment can only take place once every six years.

Mr. RINAKER (Macoupin). Then the meaning of the section would be that it can only be done at one time, and before the election of judges.

Mr. DEYOUNG (Cook). Or at the next session after the adoption of the Constitution.

Mr. RINAKER (Macoupin). It is not intended that in the case of the increase of population in any one of the two counties or more, with the increased court work indicated, without waiting until the session next before the election, it will be creating these smaller circuits?

Mr. DEYOUNG (Cook). No.

Mr. HAMILL (Cook). I want to call attention to the mathematical impossibility now presented by the section. Assume that you have a population of 3,000,000 people. Under this section you are to have not to exceed 20 circuits. Assume you have 20. Then you are just coming out even with 150,000 each. Supposing under the last provision here there were five circuits of 100,000 each. You will have 15 circuits left, and two and one-half million population, and then you will have to put in each one of your 20 circuits more than 150,000.

Mr. DEYOUNG (Cook). Certainly. The minimum population must be 150,000.

CHAIRMAN CUTTING. The maximum is not limited, however.

Mr. HAMILL (Cook). Then it is unfair, because you compel the rest of the State to have fewer judges for the given number of population.

Mr. DEYOUNG (Cook). The average county with 100,000 population does not have its circuit court in session nine months in the year. With a county like Sangamon it is quite another story, but as you will observe, the requirement is not only a minimum of population, but nine months business in the year. It is well known that in certain districts of the State the same population does not give rise to the same volume of litigation.

Mr. LINDLY (Bond). I think Mr. Hamill's proposition is correct, but if they would make it that no judicial districts should have more than 150,000 inhabitants in it, it would correct the error.

Mr. DEYOUNG (Cook). It would do the very reverse, and upset the requirement. There should not be any maximum limit.

Mr. LINDLY (Bond). I think Mr. Hamill is correct, because it says here that the population shall not exceed one circuit for every 150,000 in the State. That creates the number of circuits that you have in the State, and if you have one circuit that is less, then you increase the population of the balance, which you have limited here.

Mr. TRAUTMANN (St. Clair). It seems to me this language is simply to fix the limit in the number of circuits, so that it cannot be too

small. It says that they shall not exceed in number one circuit for every 150,000, and also that you must observe county lines, so that there will be no two circuits that will have exactly the same population. It cannot be done. This is simply to fix the limit, so that with three million people you would not have more than 20 circuits. But that does not say that your circuits shall be equal. They cannot be equal, unless you pay no regard to county lines. But of course that changes from year to year as the population increases or decreases, and it seems to me that is the only way you can work it.

Mr. LINDLY (Bond). Every time you take off a county of 100,000, entitled to three judges, it increases the rest. Why should that be done? Why place in here a statement that the judicial district shall contain 150,000 or less, and every time you take off one get that result? Why not let the districts be limited by population instead of limiting by the population of the whole State? Then when you took off 100,000 population in one county you would not increase the rest of the circuits.

Mr. MILLER (Cook). Would it not perhaps be better to say, "No district except as herein provided shall contain less than 150,000 population."

Mr. DEYOUNG (Cook). You can readily see that the matter of apportionment is not a haphazard matter. It is not the case of creating a separate, particular circuit, but the reapportionment of the entire State. Certain of the circuits can be changed. County lines, of course, ought to be observed. Now, it is a well known fact that certain circuits in the northwestern part of the State, whose judges have been in our courts for months together, are underworked, while some others are overworked. But you now have the opportunity of creating circuits, adding six to what you have already. I do not think 150,000 is too high.

Mr. LINDLY (Bond). I do not object to the 150,000, but suppose there were three counties close together with 140,000, 150,000 and 160,000, and you created three new districts. There would be 120,000 of population which would have to be added to the districts close by, and increase their population. Why not set it so that there would be a circuit of 150,000 in conjunction with the adjacent district, and you could create a new district so that each district in the State could contain possibly no more than 150,000?

Mr. DEYOUNG (Cook). It seems to me it would be fatal to any reapportionment to establish a maximum.

Mr. LINDLY (Bond). Why not make a statement as to what the population shall be for a circuit, instead of dividing the State?

Mr. DEYOUNG (Cook). The only purpose of that is to determine the maximum number of circuits you can have in the State.

Mr. LINDLY (Bond). Why could that not be determined by both the total number that you might have in one, and your locality created by this law?

Mr. DEYOUNG (Cook). It does not require absolutely that there shall be just 150,000 inhabitants. The number may be more or less, but it does determine the number of division circuits you can have outside of Cook county. It seems to me the only question is whether on a reapportionment you will have enough circuits, or the number permissible under this minimum requirement is sufficient for these State purposes. You have a minimum requirement of 100,000 for a circuit of a single county, or contiguous counties more than one, but there must be the additional requirement of nine months business in the year.

Mr. LINDLY (Bond). Well, it does seem to me that they ought not put into this bill a division of the total population of the State by a certain number to determine how many districts there should be in the State. I think the bill ought to set the maximum, or as near that as possible, and then let districts be created which would not only enable them to properly divide the State now, but to properly divide it in the future.

Mr. TRAUTMANN (St. Clair). What the gentleman desires to accomplish can be easily done by adding after the word "State" in line 11 the words "outside of the counties that are separate circuits."

Mr. LINDLY (Bond). That is satisfactory.

Mr. DEYOUNG (Cook). Of course, this is limited to the State outside of Cook county.

CHAIRMAN CUTTING. That will not do any harm.

Mr. HAMILL (Cook). All I desired to point out was that this would necessarily result in a considerable disparity of population in the different circuits. If that is not objectionable, I see no objection.

Mr. TRAUTMANN (St. Clair). I desire to move the adoption of my amendment.

AMENDMENT No. 6.

Amend section 16 of Proposal No. 383 in line 11 by adding after the word "State" the following—"outside of the counties that are separate circuits."

Mr. TRAUTMANN (St. Clair). If you had a population of three million inhabitants outside of Cook county—and we have more now—and five counties of 100,000 to each county or circuit, you deduct 500,000 of population, but you already have five circuits, and if you divided 3,000,000 by 150,000 you would have 20 circuits. That would leave you only 15 circuits for 2,500,000 inhabitants outside of the five counties. If you deduct the 500,000, and divide 2,500,000 by 150,000, you have 16.6 or, in other words, 17 circuits instead of 15. That would give the smaller counties two more circuits, so that the fact that you take out counties and create circuits that do not come up to this maximum of 150,000 would not add additional population to be carried by the other counties.

Mr. DEYOUNG (Cook). I hope the gentleman from St. Clair will not urge his amendment seriously. You abstract five counties, for instance, of 100,000 population each from your total of 3,000,000, and you have two and one-half million left, and on the basis of 150,000 per circuit, you then need 16.6 circuits, or two more circuits than are permissible under this arrangement. I call attention to the fact that there is only one circuit today in the whole State that has a population of less than 150,000, and that is the Freeport circuit. All of the other circuits outside of Cook county—their population ranges from that figure to about 300,000, but a number of them have gone considerably above 150,000. In 1910 the first circuit had 210,000; second, 233,000; third, 310,000; fourth, 244,000; fifth, 177,000; sixth, 175,000; seventh, 222,000. You will observe how far in excess of the minimum requirement in this provision those figures are. It would be a rather violent assumption to say that in each of those five counties the population, which is above 100,000, and only that, is to be deducted, because the chances are that the population from a single county, or two or more contiguous counties, would be very considerably in excess of the 100,000 minimum. If that is true, it does not seem that there is any necessity of creating any number of districts or circuits in addition to what this minimum requirement permits. There is elasticity there. We were very cautious not to say that each district must have exactly 150,000. It may have less and it may have more, as county lines and circumstances on a reapportionment of the whole State will develop. It seems to me that the very language of this makes reapportionment extremely difficult. Here is a legislative assembly. It approaches a reapportionment under this language, so that when you approach the test you have the whole situation before you, but you are not able to tell how many circuits you can create.

If you will turn to section 13 of the present Constitution, Article 6, you will find that this was a single judge, and not three, as we now provide. We have only raised the minimum requirement 50 per cent, but we have multiplied the number of judges by three. The gentleman from Jefferson made a strong argument for large circuits rather than small, to avoid group

selection in the selection of judges. You want a judge to come from a larger constituency, if possible, so that no particular influence in any circuit or county can dominate the court. That is one of the criticisms that has been urged against the election of city judges. I think we ought to pause before we increase indefinitely the number of circuits, and I hope the gentleman will not press the amendment.

Mr. TRAUTMANN (St. Clair). I simply offered it at the suggestion of the gentleman from Bond, to show how it might be worked.

Mr. LINDLY (Bond). Another thing. You provide here that the first Monday of each month shall be return day, and that the court shall be open at all times. The gentlemen who do not live in small counties cannot appreciate our position. Since we have surrendered the first part of it, I hope that the convention will not proceed to make large districts, so as to keep those of us who are in small counties, that have not a resident judge, from having the benefit of a smaller district. I believe that unless this is amended so as to divide the State outside of the population of counties and special districts, you will have districts with 200,000 or 300,000 inhabitants finally, and you will have eight or nine or ten counties.

If you will tell me how the circuit judges in nine counties are going to attend the return days on the first Monday of every month, you will solve the problem for me. I hope in the interest of the smaller counties of this State, that have no resident judges, and have to try their cases according to the whim of the judges who do come there, who rush them to death from the time they land until they get away on the next train, you will not divide this State in any other way than by 150,000, deducting from that the population of counties that have special circuits.

Mr. GREEN (Champaign). The suggestion of having a resident judge in each county was thoroughly canvassed in the committee, and it was so overwhelmingly determined that that would interfere with the structure of the circuit court system, that it ought not to prevail, that there was not really any attempt made to work it out along that line. Now, let us not reach by indirection something to accommodate some county that wants a resident judge, creating necessarily from two to three extra circuits in the State with three judges in each circuit to serve at great expense. If in 1870, with those means of communication, one judge could serve a circuit of 100,000, surely at this time three judges can serve a circuit of 150,000, the fact being that even in those circuits with nearly twice that population, three judges are doing it, and although they are occupied all the time, some of them serve on the Appellate bench. The committee felt they were making the language straight toward conceding anything that would be reasonably asked, toward increasing the number of circuits, and decreasing the opportunity for counties to be without judges. But you will add from six to twelve additional circuit judges in this State without any use on earth, except that they can live in some county increasing above the minimum.

Mr. LINDLY (Bond). How do you know they would not have anything to do? There would be 150,000 population in my circuit, the same as in yours.

Mr. GREEN (Champaign). I did not say they would not have anything to do, but I say that there are now, in counties with nearly twice the population, three judges serving the district, and some of them on the Appellate bench part of the time, and not busy, as much as they are in the smaller circuits.

Mr. LINDLY (Bond). I do not want to be misunderstood. I am not asking for any smaller circuit than 150,000.

Mr. GREEN (Champaign). The committee was of the opinion that 150,000 was entirely too small to provide as an arbitrary figure, but in order to determine the number of circuits that there should be in the State, they used that as advisory, so that the General Assembly in the apportionment could take into consideration the necessity of the case over the State.

Mr. LINDLY (Bond). What difference would it make if the judges were all serving 150,000 population, if you added anything to it to make it equal to all?

Mr. GREEN (Champaign). In the circuit in which I live there is greatly in excess of 150,000, and three judges do all the work. Now, why provide a scheme that would practically reduce the circuit to 150,000, and make the necessity of electing additional judges when we do not need them?

Mr. LINDLY (Bond). I take it for granted that the gentlemen do not know anything about the inconvenience in small counties, and, of course, being in big counties, they want to run over the little county.

Mr. JARMAN (Schuyler). We have 17 circuits and 51 judges, 9 of them sitting on the Appellate bench, so that, say, half of the time is devoted to the Appellate Court. Then on the circuit we have the services of 47. That is our present condition on the circuit at best. Under this apportionment proposed it is possible to have 20 circuits of three judges each, providing a service of 60 judges, so that we are increasing the judges.

Mr. TRAUTMANN (St. Clair). You will have more than that. You will have 22 or 23.

Mr. DEYOUNG (Cook). Twenty-nine, you may have.

Mr. JARMAN (Schuyler). Multiply that by three, and you have 87 judges instead of 47 now. That is a matter to consider.

Mr. LINDLY (Bond). It is not a question of the additional 15. Ten would come from 5 counties. They got three judges in a county. It is not exactly the population I am talking about. It is a matter of having to go around to counties not having the benefit of resident judges.

Mr. GREEN (Champaign). The mere fact that return day is set for the first Monday of the month does not mean that the judge should be there at that time, but to protect the small county against the judge passing it up another section provides that it shall have at least four terms per year, so that they are assured of that much attention.

(Amendment lost.)

Mr. JARMAN (Schuyler). I move that 150,000 be stricken out and 200,000 inserted. With 200,000 you will have more judges than you have now to do the business.

Mr. DEYOUNG (Cook). The committee had 200,000 first in its tentative draft, but the fact that all of the populous counties are not contiguous to one another compelled this elasticity, and I believe it should remain where it is, because I do not think the legislature in the matter of reapportionment will run wild.

Mr. JARMAN (Schuyler). I will withdraw the amendment.

(Section adopted.)

(Section 17 read.)

Mr. DEYOUNG (Cook). I move the adoption of the section.

Mr. JARMAN (Schuyler). You have the date of November, 1927, with reference to the Supreme Court, where your date is November, 1921, with reference to the fourth judicial district. I understand if the Constitution is not adopted before June, 1921, 1927 is correct, but if it is correct in one case, it is not in the other. Would it not be best to make the date 1921 now, and then if it is ascertained the Constitution will not be voted upon before June, it can be changed to 1927?

Mr. DEYOUNG (Cook). The portion with reference to the Supreme Court was drawn before we took our recess, and the assumption was that perhaps the question of ratification would be submitted not later than early in the spring. The draft with reference to the circuit court was also drawn, but was not completed, and has been revised since, recognizing the inconsistency of the two dates, with reference to the fourth judicial circuit, just as in this case. We felt finally that in all probability the question of ratification would not be determined prior to the first Monday in June, when the circuit judges would be elected. It is a matter that will have to be suggested finally either by the committee on phraseology and style, or by

the committee on schedule. We cannot determine now. We can pass it as it now stands, and that can easily be determined later on.

Mr. HAMILL (Cook). It has occurred to me that when it comes to the committee on phraseology and style, the committee will find it desirable that a very large portion of this article be taken from the article and put in the schedule.

Mr. DEYOUNG (Cook). That may be so, but we had to make it complete, as we felt.

(Section adopted.)

(Section 18 read and adopted.)

(Section 19 read.)

Mr. DEYOUNG (Cook). I move the adoption of the section as read.

Mr. BRENHOLT (Madison). I desire to offer the following amendment:

AMENDMENT No. 7.

Amend section 19 in line 3 by striking out the word "may" and inserting the words "shall where city courts are not established."

Mr. BRENHOLT (Madison). My purpose in offering the amendment is to insure people enjoying the convenience of a city court, that court will be held in those various cities.

Mr. DEYOUNG (Cook). I submit the amendment should not prevail. There is no reason why in writing a Constitution we should embed in it a preference for certain cities over other cities of equal or superior population. We have confidence in the judiciary of the circuit court, to dispose of the most important questions which can arise between citizens, and it seems to me that the volume of business in those cities which now have city courts is such that we can trust the judges that sittings will be held not only in the cities where city courts now exist, but in other cities in the respective circuits which have population and a disposition to provide quarters. I do not know that we ought to compel the circuit court absolutely by constitutional mandate to be a nomadic court. If there is anything that deteriorates a court, it is to have it sit almost everywhere. It seems to me this permissive requirement is indeed sufficient. It puts them all on an equality. I submit that the amendment ought not to prevail.

Mr. WALL (Pulaski). I do not see how this would be practicable. As I understand the article, it is not mandatory anyway. Suppose you have a county in which there is a city court in a small town. Suppose there are two or three other very much larger towns, with no city courts, none of which are the county seat. Would it not be unfair to say to the circuit judge, "You must hold court, if you hold outside of the county seat, in this little town, because at one time it had a city court." I quite agree that the circuit court should not be a nomadic court.

Mr. TRAUTMANN (St. Clair). I am satisfied that so far as St. Clair and Madison counties are concerned, there is no cause for alarm with reference to having the circuit judges hold court in East St. Louis, Granite City or Alton, because I apprehend that in those two large counties, growing rapidly, with over 100,000 inhabitants now, and considerably more than nine months business, the legislature would create a circuit for each one of them, and if there are three judges in Madison county, there is no question in my mind but what they would hold court in the two largest cities of the county, Alton and Granite City, because they are now equipped to hold court. If the city of Collinsville, with 10,000 inhabitants, desires to have court held there, and they will provide a courtroom and furnish all the necessary equipment, I am satisfied that one of the circuit judges of Madison county would go over and hold court. So not having any alarm as far as those two counties are concerned, I think the amendment should not prevail.

(Amendment lost.)

Mr. JOHNSON (Bureau). What is the purpose of using the following language, "for the holding of two or more sessions?" Is it meant by that they could not enter an order to hold one session?

Mr. DEYOUNG (Cook). The minimum requirement now is four circuit court terms, at least two in each county, under the present Constitution, and some thought that the number ought to be more or less. Two is the minimum requirement. The order may be more, of course.

Mr. JOHNSON (Bureau). Yes, but under that they could not enter an order to sit only once a year?

Mr. DEYOUNG (Cook). No, they would have to sit at least twice.

Mr. WALL (Pulaski). That means, does it not, that if a county held four terms a year, every county must have that.

Mr. DEYOUNG (Cook). As a minimum.

Mr. WALL (Pulaski). And as many more as the court may deem necessary?

Mr. DEYOUNG (Cook). Yes.

Mr. WALL (Pulaski). Suppose a county desires to hold a portion of the court in some city other than the county seat. The judge makes an order accordingly. When that order is made, if they hold four terms per year, they must hold two of those terms at some place other than the county seat?

Mr. DEYOUNG (Cook). The word sessions is used. That means the actual presence of the court. We have had more or less confusion here to-day. It seems to have been thought that a return day required the actual presence of the judge.

Mr. WALL (Pulaski). No, I understand that. But sessions mean the presence of the court?

Mr. DEYOUNG (Cook). Absolutely.

Mr. WALL (Pulaski). And two of those sessions must be held?

Mr. DEYOUNG (Cook). At least two, in addition to those at the county seat.

Mr. BRANDON (Kane). This does not require a session of the court in a city other than the county seat to be limited to actions arising from that particular city?

Mr. DEYOUNG (Cook). The Supreme Court has held again and again that you cannot send original process outside of the city limits. This does not confine the trial of a case at one of these cities other than the county seat to a cause arising within the city limits. It may arise anywhere in the county, in or out of the city.

I move the adoption of section 19.

(Section adopted.)

(Section 20 read.)

Mr. DEYOUNG (Cook). Before taking action on this section, may I suggest that the line, "thereafter the office of judge of the probate court shall be abolished" be stricken out, because it appears in section 45 in the general provisions applicable to all. It should not appear here. I ask unanimous consent to have it stricken out.

(Consent granted.)

Mr. DEYOUNG (Cook). I move the adoption of the section.

Mr. JARMAN (Schuyler). You provide here for the abolition of the probate court in November, 1922.

Mr. DEYOUNG (Cook). That sentence was stricken out at this point.

Mr. JARMAN (Schuyler). Yes, and the election of the county court in November, 1922.

Mr. DEYOUNG (Cook). Yes.

Mr. JARMAN (Schuyler). Which will then perform the duty of the probate court after that time.

Mr. DEYOUNG (Cook). Yes.

Mr. JARMAN (Schuyler). You also have a provision that the judge's salary shall not be increased during its term of office. That means that the county judge would serve six years at his old salary?

Mr. DEYOUNG (Cook). No, because on that day his term of office will have expired anyway under the law as it now stands, and his successor will be elected on that very day in November, 1922.

Mr. JARMAN (Schuyler). When will the legislature fix the salary? It does not meet until 1923.

Mr. LINDLY (Bond). You would have to have a special session.

Mr. DEYOUNG (Cook). That may be entirely possible.

Mr. TRAUTMANN (St. Clair). Does that provide that the salary of the county judge shall be fixed by the legislature?

Mr. DEYOUNG (Cook). Yes, later on.

Mr. MIGHELL (Kane). How will that affect the salaries of the circuit judges all over the State, to be elected next June?

Mr. DEYOUNG (Cook). They get their new salary next June, and those salaries continue during the term for which they are elected.

Mr. TRAUTMANN (St. Clair). The legislature recently passed a new law increasing the salary of circuit judges, which will not go into effect until June, 1921, so they will get that salary.

Mr. MIGHELL (Kane). That does not affect the salaries established under this Constitution.

Mr. JARMAN (Schuyler). I am concerned about the salary of the county judges during those six years.

Mr. DEYOUNG (Cook). I do not know but what section 47 will take care of it as it stands. The salaries of county judges are not now fixed directly by law. The county board fixes them. As a matter of fact, salaries are not germane to this situation at all. The inquiry is pertinent, but I think not at this point. I think it should be taken up in connection with section 47.

(Section adopted.)

(Section 21 read.)

Mr. DEYOUNG (Cook). I move its adoption.

Mr. WALL (Pulaski). I desire to amend by striking out the words "two thousand" and substituting the words "three thousand" in line seven. I heartily agree with the committee in that it did not give jurisdiction over cases *ex delictu* to the county court, but I think enlarged jurisdiction of the county court here, which will be followed by substantial salaries, will create a new condition in the counties of the State, whereby able men, good lawyers, will be elected county judges. If you increase this jurisdiction upon actions arising on contracts, it will do no violence to causes of action arising on contracts, because the law is better settled there possibly than it is upon any other legal relation. I am asking for this largely as a matter of convenience. The county court is open all the time for the transaction of business. Speedy trials can be had. Most of the actions *ex contractu* that are brought in my section of the State go by default, and it enables banks and other institutions, when a note is due, and there is danger of not being able to collect unless execution or other process at once issues, to immediately get action on the subject. Many hundreds of thousands of dollars are loaned in twenty-five hundred dollar lots. The court would not have jurisdiction in that kind of case. I am asking for this as a matter of convenience, and I believe it does no violence to our judicial system to enlarge the county court to that extent upon actions *ex contractu*.

Those are my reasons for it, and I hope the amendment will be adopted.

CHAIRMAN CUTTING. That was well considered by the committee, and it had \$3,000 in there, but that was stricken out at the request of a majority of the committee. You will note that there was a jurisdiction of \$3,000 in the district court of Cook county, and that was reduced to make it conform to this.

Mr. GREEN (Champaign). The chair is in error about a majority of the committee down State voting \$3,000 in the report. In drafting the provision of jurisdiction for the district court in Cook county it was placed at \$3,000. Personally I have always felt that we ought to make of the county court a real probate court, and not give it a low jurisdiction. But a majority of the committee felt it should be limited, and our first draft for

the down State counties carried it at \$1,000. I believe the chairman of the committee will bear me out in that.

CHAIRMAN CUTTING. The gentleman is correct, but we have talked about \$3,000.

Mr. GREEN (Champaign). The Cook county draft was \$3,000, but after a long discussion we surrendered our notions to the compromise of \$2,000, and the Cook county people made their jurisdiction \$2,000. We are putting into the county court tremendous probate powers—I almost said chancery powers—giving it jurisdiction over testamentary trusts, exclusive appellate jurisdiction from justices of the peace, and I believe you will observe, when you come to that place in this article where we are trying to make a court of dignity out of a justice of the peace court. The scheme worked out is that perhaps it can be filled by a lawyer, the idea being that there should be one trial and one appeal, instead of clogging the circuit court. The county court was made a court of exclusive jurisdiction from justices of the peace, but the common law jurisdiction in the county court is nonsense, and I hope the convention will not lift it to the dignity of jurisdiction of a United States court in the extent of actions *ex contractu*.

Mr. MILLS (Macon). It seems to me the county court is the most important to the citizens of the county, of any court in the county, and it does seem to me that common law matters ought to be submitted to the circuit court. The county court ought not to have anything to do with any common law matters whatever, and if you will examine this report you will see that many very important questions have been turned over almost exclusively to the county court. Nearly all of the dependents go into the county court. Every man's estate goes through the county court once or twice in a generation. The matter of guardianship, and all of the interests of his estate, are put through the county court, and nearly all of the dependents go through the county court. It does seem to me that this part of the common law causes ought to be taken away from the county court.

City improvements, drainage matters and things of that character find their way into the county court, and it is really the most important to the mass of people of any court in the State, because it touches intimately all of the citizenship of the county. I think the section ought to be amended by striking out "all common law actions and all criminal cases."

Mr. GREEN (Champaign). That situation is true in counties the size of Macon, Champaign and so forth, and that was the reason we contended against any common law jurisdiction. But in the small counties we found that it was a very great injustice to them not to have any common law jurisdiction in the county court, and that was the reason for the compromise in the Constitution on that subject.

(Amendment lost.)

(Section adopted.)

(Section 22 read.)

Mr. DEYOUNG (Cook). I move its adoption.

Mr. LINDLY (Bond). I move to strike out in line 9 "but the General Assembly may create two or more contiguous counties, in each of which there shall be elected one judge," down to the middle of line 12. I do this because I believe that each county ought to have some kind of a judge in the county. Since they have been so particular about the size of the districts for the circuits, I hope they will not deprive the smaller counties of one judge.

Mr. DEYOUNG (Cook). The provision is in the present Constitution. We have repeated in that respect the exact language of the Constitution. The legislature has not seen fit to exercise that. You know as well as I do that some of the men who have been on the county bench of this State have not been admitted to the bar. I do not want to single out any particular county, but there are possibly three or four counties in this State with populations of less than 10,000. It is entirely proper, if the legislature shall see fit, where the State pays the salary, to create a county court for the two counties, say, and the business of those two counties, the duties of

the incumbent in office of county judge for the two counties, may not even approach the work of the county judge of Sangamon, Madison, or even Bond county; and it seems to me it is quite a necessary provision, and we ought not to say that the State must pay a county judge for a small county like Calhoun, which I understand has less population than it had in 1910.

Why should it not be permissive to the legislature to say that they will elect one county court for the two that can easily discharge all of the duties of the county judge and probate judge, if you will, for both counties? We are not blindly following provisions of the old Constitution. This committee recognizes that some things which experience has demonstrated to be sound, we ought to hold to; and I hope that the mere theory of a judge for every county, scientific as it might be, desirable as it might be, if the area of every county in Illinois were approximately the same, will not destroy the effort to create a court worthy of the name, a court of some dignity, with a judge of some character and ability, who might not be found in a county with a population of 7500, where the salary would be so very small. Let us give the opportunity to create a court for two counties, with the prospect, at least, of greater capacity and a better salary.

That is the reason the committee repeated this provision of the Constitution of 1870. So long as the county boards pay the salaries, I can see why the legislature has not invoked it; but when the State pays the salaries, as it should, so as to make a lawyer want to be a candidate for such a place, it will give some dignity to the county court, it will serve the interests of the citizens of every county, as well as the interest of justice.

Mr. LINDLY (Bond). If the people in the smaller counties are willing to risk their own judgment there, I do not see what business it is of the people who do not live in those counties. The danger, as I see it, is that although the right has existed, the General Assembly has never used it. But now that the State fixes the salary, let it fix the salary similar in those counties, if it is necessary, but give to every man the right, if he wants to go to the probate court and take up and settle his estate, the right to have somebody in the county that he can go to. Our probate court is open all the time. Why should we be deprived of the open probate court in the smaller counties? Why not give each county a judge, and fix a salary according to the size of the county, and put in your Constitution that that county judge shall be a lawyer? I knew a county judge for a great many years, in a county close to where I live, and he was one of the best in the State, who was not a lawyer.

Mr. GREEN (Champaign). This is the first time the committee had any request to modify this provision, and it does seem that it would be taking a step back to arbitrarily set up a separate court in each county, when in 1870 there was no such necessity, and no emergency has arisen to call into question the wisdom of it, and the situation now, in the light of experience, ought to invite the greatest caution before we take a step backward, and to take away that safeguard that was preserved in the Constitution of 1870, against having these little unit county courts.

(Amendment lost.)

Mr. MILLS (Macon). I desire to offer an amendment.

AMENDMENT No. 10.

Amend section 22 of Proposal No. 383 by striking out in line 14 the words "seventy-five" and inserting in lieu thereof the words "sixty-five."

Mr. MIGHELL (Kane). I live in a county which has practically 100,000 people, and yet I feel that we have no need of two county judges in the county. Some of the figures read to you this morning indicating the time spent by our county and probate judges, if compared a little more carefully, would be conclusive proof that even in a county of 100,000, as Kane county, there is no need of two county judges.

The delegate from Chicago was comparing the city courts, probate courts and county courts from those figures. I wish to simply compare the probate and county, because those are the two greatest, now united in the county court, and it is the county court which is to take up the work of those two courts. In Kane county in 1916 those two judges sat on the Chicago bench for 507 days out of 600; in 1917, 480 days; in 1918, 298; in 1919, 358. In other words, in those four years those two judges spent 15 per cent of their time in Kane county the first year, as against 85 in Cook county; 20 the next year, as against 80; 51 the next year, as against 49, and 40 this last year as against 60 per cent. Only in one year, the year before last, when it was 51 to 49, did they spend half their time in Kane county.

Which figures show that one judge, if he spent all his time in Kane county, could do the work of both courts. The little additional jurisdiction added to the County Court seems to me to be counterbalanced by the greater rapidity with which the lawyers could transact their business if it was all in one court.

Consequently, I feel that in my county we do not need an extra county judge, and necessarily I am opposed to the amendment.

Mr. MILLS (Macon). What I said before applies equally as well here. We have in our county not quite 70,000. The work that the county judge has now is almost impossible for him to do, working all the time, and with the additional work that has been put on the county court in the preceding section, it will make it impossible for one man to handle the job in our county. As I said before, the work that is done in the county court is more important to the people of Macon county than the work that is done in the circuit court. There is no question about it. I have been there now for 40 years, and I know something about the work that has been done in the county court and the work that has been done in the circuit.

So far as the amount of work that is done in the two courts is concerned, there is no comparison. Our circuit court holds quite a number of weeks in the year, there is no question about that, but the county judge is on the job from early Monday morning until late Saturday night, and with this additional work it would be absolutely impossible for one man to do.

Mr. DEYOUNG (Cook). The committee considered this matter, and it was not a provision of first impression fixing it at 75,000. The gentleman who has just spoken has told you how much of the time the judges of the county and probate courts of his county have spent out of their own jurisdiction. The nine probate courts in this State are, of course, permissible under the statute in counties with a population exceeding 70,000. We fixed it at 75,000 in a report, because we were informed after hearing the arguments on both sides that that would meet every requirement. I fail to discover why, in a county having less than 70,000, such as Macon county, the judge of the county court is so overworked. Either he is not very efficient in the performance of his duties, or he spends his time upon detail which a clerk ought to perform.

But that is no reason why the Constitution ought to be changed. I call attention to the probate court of Cook county and the county court of that county as existing now. The chairman of this committee graced the probate bench of that county for 13 years. The county has a population now of approximately 3,000,000, as against 70,000. True, he had the assistance of three assistant judges, so-called, who were merely appointees of the clerk. The chairman of this committee entered in the last year of his service—which was not unusual—nearly 10,000 orders; and if one man, competent to perform the duties of that office, can preside in the probate court in a county of 3,000,000 people, with only such assistance as he had, I must also include the county judge, with his two or three outside judges—never more than three on the average—and you can readily see that any one single judge, or even his assistants, would have to render service for a great many more than 70,000 people.

The judge in the probate court with his three assistants, and the three or four judges in the county court, would not make over eight. You would

have a judge for almost every 400,000 population, as against 70,000. We are fixing a general rule here. Perhaps it works a hardship in a particular instance, but I fail to understand why a competent judge cannot perform the duties of both offices, county and probate, until the county attains a minimum size of 70,000. Why should the County of Macon have this requirement, when the County of Kane, with two large cities, and one certainly an industrial center, does not feel the need of it? Why is it not necessary in that county to have these two judges, simply because a place has been made for them? I think the amendment should be defeated.

Mr. MIGHELL (Kane). I move as a substitute to the amendment that the last three words in line 14 be "one hundred thousand population."

Mr. DEYOUNG (Cook). I do not think we ought to go too far the other way. The requirement of the Constitution now is a minimum population of 50,000. The statute has fixed it, and it is a well known fact that in the counties where the county and probate judges both hold office now, in most of those counties the work of the two is not required. I think 75,000 is about sufficient. The legislature may fix it at 100, 90 or 80, but we ought to leave some elasticity.

Mr. MACK (Hancock). The committee has listened to reports from every direction, and given them careful consideration. We desire that there shall be an abundance of talent on the bench, so that all of the different functions of the court may be properly carried out, but on the other hand, we are desirous that the limitation should be so made that there might not be a super-abundance of judges, and salaries might not be unnecessarily paid. My first view was that it might be less than 75,000, but, I surrendered that notion to the gentleman from Kane county, because he convinced me that he was right. I believe he is right in the theory that it should not be any less than 75,000. Let us not take any chances in going over the line. I feel that that will be the happy medium and should not be disturbed.

Mr. BRANDON (Kane). Just a word in support of my colleague's estimable substitute. It may be that up in Kane county we have learned to live in peace one with the other better than they do down in Macon county. As far as I am concerned, I am thoroughly tired of this proposition of having those two offices in our county when there is no sense in it, and having the incumbents serve some place else. The only reason I was willing to support the provisions on the county court was because I saw a chance for a loophole some time by the legislature reducing the number by consolidation of courts. I believe that people are getting too much sense to spend their time and their money in court houses like they used to.

We are building a Constitution to last for fifty years. I believe there is going to be a very great change in that length of time, and a lot of the gentlemen who are engaged in the legal profession now will have to go to work. I believe if you take the average emolument of the lawyers of Kane county, you will find that it is a good deal less than what we pay our union carpenters. We have a judge in the county next to ours who does not get as much pay by half as our hod carriers do. The people of the State are learning rapidly to avoid litigation. The wise lawyer nowadays tells his clients to stay out of court. The tendency, in my judgment, in the next few decades is going to be materially to the reduction of litigation, and the establishment of business relationships by conference instead of renting a court house and hiring twelve jurymen and a judge to settle some petty difficulty that heretofore has been settled by that expensive process.

Education will proceed among the people, and we all know that the people of the State of Illinois know more today than they ever did before; and they are going to get more sense than to hire a big percentage of the fellow citizens of their community to arbitrate some little difficulty for them. They are going to get together more often. Let us not start out here with a Constitution for the people of the next few decades, based on the theory that they are going to be quarrelling with each other all the time. Let us have a provision by which the machinery of the courts may

be reduced instead of being increased. I appreciate the fact that the majority of the delegates in this convention are men who are associated with the legal profession, and naturally it is the tendency of such delegates to look upon the courts as a very essential portion of the activity of society, but as a layman, I want to tell you that if people get more sense, there is going to be less necessity for courts and lawyers, and more necessity for people who will do constructive things. I am for anything that will make possible the reduction of the number of courts. Certainly my colleague and I are approaching this fairly. This county judge is a good friend of both of us. He is a fine gentleman and a good judge, no doubt. Our county has 500 less than 100,000. We ask you for the good of the State, deliberately, to put us without the pale, by which we cannot load upon the people of this State the expense of another unnecessary instrument of legal adjudication in Kane county, because our people are getting enough sense to do without orders from court houses, and are settling matters by the common sense process of taking each other by the hand.

Mr. SCANLAN (LaSalle). I am against the substitute. Our probate judge is on the job every day in the week all day long, and our county judge also. The people of my county have not got sense enough, as indicated by the other gentleman, to avoid dying once in a while and leaving property. The business of the probate court deals with those estates. In the county court, they have not sense enough to avoid the necessity of applying for mothers' pensions, and having assessment proceedings, drainage proceedings, insanity proceedings, and things of that sort. It is attempted by this substitute to place the limit at 100,000. Our county is a little short of 100,000, more so than Kane county. If you want to go a step further and provide that all business of this character must be done by one officer, I say in our county there is not one man living who can conduct the business of that joint court, because the probate business alone would keep the judge busy all the time. Then every year, under the statutes, new work is put on the county court. I do not think this substitute should be adopted, and I think the report of the committee should be sustained by the convention.

Mr. DUPUY (Cook). In our present Constitution we read in the Bill of Rights, "Every person shall find a certain remedy in the law, completely and without denial, promptly and without delay." How can those things be accomplished unless we have the necessary and proper legal machinery to do it? I am as much opposed as any man to having a superfluous number of judges. On the contrary, I am anxious that the different localities in the State should be provided with sufficient judicial machinery to take care of their actual needs. I believe that 75,000, as fixed by the committee, is the right number to have inserted in this section. I hope that both of these amendments will fail.

Mr. MIGHELL (Kane). I believe the inhabitants of Kane county are dying with the same regularity as those of other counties, and that the probate and other legal business in our county of 100,000 is equal to other counties of the same size, at least, we have enough business to keep lawyers from starving to death; and I do not see any good reason why we should be forced to have two judges. Because Kane county will only be required to pay one per cent of the extra salary, and the State will pay the balance makes it quite certain we will ask for another judge. There are plenty of Kane county lawyers who would be willing to take the extra place.

Mr. GREEN (Champaign). But you understand it is not compulsory that you have an extra judge.

Mr. MIGHELL (Kane). I know, but we do not consider that matter. It is the proposition of the whole State, and the legislature will act upon it generally, by general law, and every county over 75,000 will have an extra county judge, and the salary will be five or six thousand dollars, probably.

Mr. DEYOUNG (Cook). If I were sitting in the legislature, I am very much inclined to think I would vote for the minimum limitation of 100,000. But we are not writing a statute here. That minimum may be changed. This provides that the General Assembly may by general law provide for the election of an additional judge of the county court in counties having a population exceeding 75,000. What is the situation today with reference to probate judges? The present Constitution has fixed the minimum at 50,000. The legislature, in all the years that have followed, has fixed the minimum at 70,000. If we were merely legislating here, and could have our work undone in two years, we might be perfectly safe in fixing the minimum at 100,000. But I share the views of the delegate from Kane county. Although a member of the bar, I do believe the body politic ought to be afflicted with as few judges as possible. We are writing something here more permanent than a statute, if it shall become effective by ratification, and we ought hardly to fix a minimum at 100,000 because the legislative wisdom will be invoked before this thing can be done. Therefore, with respect to the gentleman from Kane, I would hardly support that proposition in making the Constitution.

CHAIRMAN CUTTING. The question is on the substitute offered by the gentleman from Kane.

CHAIRMAN CUTTING (Cook). The question is on the substitute offered by the gentleman from Macon, Mr. Mills, making it sixty-five thousand.

(Motion lost.)

CHAIRMAN CUTTING (Cook). The question is on the adoption of the section as presented by the committee.

(Adopted.)

(Section 23 adopted.)

(Section 24 adopted.)

(Section 25 adopted.)

(Section 26 adopted.)

CHAIRMAN CUTTING (Cook). Section 27.

Mr. MORRIS (Cook). I offer the following amendment to section 27. Does this preclude criminal jurisdiction first?

CHAIRMAN CUTTING (Cook). It does not.

Mr. MORRIS (Cook). But it leaves it to the legislature to confer that criminal jurisdiction.

Mr. DEYOUNG (Cook). It does not, it leaves the same jurisdiction as the present Constitution does with it. The present Constitution confers on the circuit courts throughout the State, including Cook County original jurisdiction of all clauses of law and equity and such other jurisdictional and original and appellate as may be provided by law, besides that the criminal court is created with a jurisdiction too, but it has been held, as I understand it, that that jurisdiction is not exclusive, it is to classify the circuit court of Cook county just the same as every other court outside of it in the State.

Mr. MORRIS (Cook). That is my understanding of the matter, and I wanted to see if you proceeded along the same lines.

Mr. DEYOUNG (Cook). We have not departed from the present Constitution.

Mr. DUPUY (Cook). I understand the question propounded by Mr. Morris, whether or not under this provision the circuit court of Cook county would have criminal jurisdiction. I understand the chairman of the committee to say no.

Mr. DEYOUNG (Cook). I said yes, it did have.

(Section adopted.)

(Section 28 adopted.)

(Section 29 adopted.)

(Section 30.)

Mr. DUPUY (Cook). The question was raised a little while ago whether or not the circuit court—the criminal court would have jurisdiction and we could make it perfectly plain, I think, that if it is not intended that the district court of Cook county should have exclusive jurisdiction, if we had inserted in the first line of section 30 to make it read, “the district court of Cook county shall have original but not exclusive jurisdiction of all criminal cases.” I think that it would make it perfectly plain as to the language referred to awhile ago. I will leave it to the chairman of the committee.

Mr. DEYOUNG (Cook). If you put that in the beginning it might give confusion as to some of the other jurisdiction.

Mr. GORMAN (Cook). Might not that compel jurisdiction in the circuit court of criminal matters?

Mr. DEYOUNG (Cook). As we have taken the provisions of the present Constitution with reference to the jurisdiction in the two courts, and that of course has been construed, and I would take it there would not be any question that someone would raise the point that the circuit court was without jurisdiction in criminal cases, even if they did the Supreme Court would say that we adopted the language of the present Constitution without change, and the same interpretation would follow. If we are going to give the circuit court affirmative jurisdiction it should be stated in the sections providing for jurisdiction of the circuit court of Cook county. That would be the proper place, it seems to me. I take it that it can be easily separated, and we can re-vamp it later, with your permission.

Mr. DUPUY (Cook). I am sure in my own mind it is all right, complete and perfect as it stands, the circuit court will have the jurisdiction here required. I don't think a change is necessary, but that only occurred to me as an answer to the question. It may not be worth while to put it in. I doubt if it is.

(Section adopted.)

(Section 31 adopted.)

(Section 32.)

Mr. HAMILL (Cook). May I inquire why it was thought necessary to put in the Constitution, “not less than five?”

CHAIRMAN CUTTING (Cook). Because that is the minimum number the statutes of the State have required for many years past.

Mr. HAMILL (Cook). Suppose the State's attorney brings all of the criminal business to the criminal court?

CHAIRMAN CUTTING (Cook). The circuit court would not entertain it.

Mr. HAMILL (Cook). It might. I don't think the Supreme Court should be limited to the district court in selecting judges from the district court in Cook county. I think it ought to be within their province to select judges from the circuit court as well as the district court, and therefore I offer this amendment to place the words “circuit court” before judges in the second line.

(Amendment lost.)

Mr. HAMILL (Cook). I move to strike out of line one of the section the words “not less than five.”

Mr. DEYOUNG (Cook). I have no objection to that, speaking individually.

(Amendment carried.)

(Section adopted.)

(Section 33.)

Mr. HAMILL (Cook). May I inquire whether the suitable quarters that I require be furnished would include the quarters for criminal business?

Mr. DEYOUNG (Cook). Not necessarily, that would be a measure for determination by the General Assembly.

Mr. HAMILL (Cook). You see, if this court should take over all of the criminal business, we have a criminal court building and it is quite a large place.

CHAIRMAN CUTTING (Cook). It would undoubtedly be used.

Mr. HAMILL (Cook). I think we are breeding a quarrel between the city and county in the Constitution.

CHAIRMAN CUTTING (Cook). There is much in the suggestion, I think. Is there any suggestion for an amendment on that?

Mr. HAMILL (Cook). I think with a little change it could be so amended as to provide for suitable quarters for the business other than criminal should be furnished by the city to leave it perhaps by inference to be furnished by the county for criminal business. I would suggest that we pass this for the time being with a possibility that the committee would desire to place it in another form.

Mr. DEYOUNG (Cook). With the consent of the committee we will consider that carefully.

(Section passed.)

(Section 34 adopted.)

(Section 35.)

Mr. HAMILL (Cook). I desire to offer an amendment. I move to strike out after the word "assignment" in line 7 on page 12. I would not be understood, Mr. Chairman, by my motion of disapproving such a department of the court, it has function as well I am informed and I am supposed to think we will desire to continue it, but I believe it unwise in the Constitution to undertake any such specific designation for limitation upon the power of the General Assembly or the court itself. The court should be allowed to organize its business as it desires. I therefore move to strike that out.

Mr. DUPUY (Cook). I think every member of the committee would be very heartily opposed to the motion now made. This juvenile court is a matter very dear to the hearts of many people in Cook county. It has been watched with a great deal of interest and they have been down here before the committee, many of these people, including the chief probation officer of Cook county, and made strenuous pleas that this court should not be interfered with, except that it is improved and made a permanent court, with a guarantee it should be. I think this provision in a Constitution as a matter of constitutional law is unnecessary. I have no doubt the court could provide for this thing without this provision in here, but I am sure as a practical matter it would be a great mistake to strike out these words, for the reasons I have given, and I sincerely hope that that action will not be taken. They can do no possible harm, they appeal to a great many people in the County of Cook who have been and are very much interested in the courts and I hope their wishes in the matter will be respected, especially when no good purpose whatever will be sustained by striking it out.

Mr. GORMAN (Cook). Wasn't that provision inserted in here for the purpose of defining a detachment and distribution of the juvenile and domestic relation matters?

Mr. DUPUY (Cook). I think that was so, also that was a part of the duties of it. Now the court of domestic relations or the business of the court pertaining to the domestic relations of the family, jurisdiction has been much scattered, and you know we have a provision as I remember it whereby an action for support can be brought by a wife in the county court, and a divorce proceeding may be pending in the circuit court, and in the juvenile court may be certain proceedings relating to the children, and as already explained by our chairman when he went over this provision you will find the same family having domestic trouble, having proceedings pending in three or four different courts, and it was for the purpose of consolidating all these clauses, proceedings and matters, and it was determined that a branch of this court should be known and have jurisdiction and

function according to its name as a juvenile and domestic relations court. It is a very desirable thing to have brought about. That was fully explained to the committee by the chief probation officer of the county, and we heard the same thing from many other sources and I hope this motion will not prevail.

Mr. McEWEN (Cook). May I add to what my associates have said this further thought, that some confusion has arisen in Cook county, and possibly something that might be called conflict as between the municipal court and the circuit court of Cook county. The municipal court of Chicago has by its criminal processes undertaken the establishment of a number of courts or branches, of boys' courts, and some others, and the court of domestic relations, and there has been a continual—not anything that could be called a conflict in a hostile sense—but a continual mixing back and forth. Judge Pinckney, who is now deceased, was very strongly in favor of giving the circuit court the power to have jurisdiction over the entire subject, and he was the originator of it. The present judge of the juvenile court has requested it. The chief probation officer was before us, and one of the ex-chief probation officers was before us, the idea being to unify this and put it under the jurisdiction of the circuit court of Cook county so that these various conflicts could be straightened out and avoided. One instance being cited by Judge Pinckney where he had five different members of the family already involved in the relationship in the court, were found also in five different courts, and it was the idea of bringing them all together that these gentlemen out of their experience as judges, and in deference to them and because it appeared to be part of wisdom, and in the progressive way of promoting splendid ideas, that have originated in Cook county, your committee put in the clause and I hope it remains.

Mr. HAMILL (Cook). The argument of the two gentlemen who spoke in favor of retaining this section is first a sentimental one, that I have sympathy with, and secondly the practical way of confining the jurisdiction of cases of this nature to one court. If we were to be governed by the sentimental reason rather than by the rules of good draftsmanship I would have yielded to their suggestion, but preferring the rules of good draftsmanship to the sentimental reason it is essential that we exclude statutory measures and matters of detail regulation from constitutional provisions. The second reason in my judgment is false assumption, this provision would not accomplish the result expected of section 30. The circuit court is given original jurisdiction of all cases criminal and that will confer on that court jurisdiction over crimes committed by children and it will be just as possible for the circuit court to have a boy's court and a domestic relation court as it is now, and you would not have accomplished the salvation that you are after.

Moreover the Constitution now directs that a certain branch shall have a certain name, and then it says shall hear such cases as may be assigned to it by general order of the circuit court. That does not mean anything at all except that they must have a department of the court by a certain name. We have had a juvenile court going on for years and there is no complaint about it, it has never had any constitutional recognition. I need hardly repeat I had the honor of defending the law when the constitutionality was attacked and I gave it a good deal of time and consideration. I believe it is a good law. I am not familiar with the workings but I am told by people who have been into it that it is working very satisfactorily, and I would not say a word to militate against it, but it seems to me, as outlined here, you are trying to do what so many others do, to get a fad or interest, and try to get it into the Constitution where it does not belong.

Mr. DUPUY (Cook). May I say one or two words in reply to the last speaker, because in paragraph 34 which we have just adopted the provision "any cause may or matter may in like manner be transferred from one court to another," this clause makes it free and simple that there is to be complete consolidation of all matters of this character in a court or branch of the court which this convention clearly indicates should be a court to

hear those things. It does not necessarily follow it will be done, but it points the way to do it, so that all these matters may be transferred to this particular court, and the method is provided by which the transfer may be made, and we have indicated that that is the court in which we expect to hear these particular classes of cases.

(Amendment lost.)

(Section adopted.)

(Section 36.)

Mr. MORRIS (Cook). I simply want to voice my dissent to any such provision by which all of the functions of the county judge and all of the political affairs and effects of the county judge of Cook county are turned over. It is now vested in a certain judicial officer who is made the judge of the court. This is only until provided by law. It is now vested by the legislature in a judge, the power is to be lodged somewhere temporarily until it is turned over to the Supreme Court and I am opposed to it.

Mr. DEYOUNG (Cook). It is now vested in a certain judicial officer who is made a judge of the circuit court. This is only until otherwise provided by law. It is now vested by the legislature in a judge, the power has to be lodged somewhat temporarily, until it could be taken care of, and that is the only purpose of this provision. It was the hope of the committee that sooner or later the legislature would see fit to lodge that power somewhere else than in a judge where we do not think it belongs.

Mr. HULL (Cook). Does that carry all of the duties of the Board of Election Commissioners?

Mr. DEYOUNG (Cook). That had to be provided for temporarily, that is the point exactly, we do not want to leave it to the whole court, we do not want a whole court.

Mr. TRAEGER (Cook). The legislature may change that.

Mr. DEYOUNG (Cook). Yes, you see it says until otherwise provided by law, the legislature can take it from the county judges of the State, the members of the committee felt it should not be allowed to remain there. It left a vacuum that had to be taken care of, we had to do something. It was unavoidable.

(Section adopted.)

(Section 37 adopted.)

(Section 38 adopted.)

(Section 39 adopted.)

(Section 40 adopted.)

(Section 41.)

Mr. MILLER (Cook). I now offer as a substitute for section 41.

Mr. CRUDEN (Cook). I rather think as to this that the proper time to settle this question is not now, but it should be delayed until every member has a copy of it on his desk and I move it be laid on the table.

CHAIRMAN CUTTING (Cook). The chair will rule that if any member objects to taking it up now it will not be taken up because it is not printed and it is not on the desks of the members. It is, however, simply a proposition to submit to the people as to whether they will have a new system of appointing judges.

(Substitute laid on the table.)

(Section 41 adopted.)

(Section 42 adopted.)

(Section 43 adopted.)

(Section 44 adopted.)

(Section 45 adopted.)

(Section 46 adopted.)

(Section 47 adopted.)

(Section 48 adopted.)

(Section 49 adopted.)

(Section 50 adopted.)

(Section 51 adopted.)

(Section 52 adopted.)

Mr. GREEN (Champaign). I move a reconsideration of section 47, and a deferring of action until the committee shall have time to consider it, bringing it up Monday.

(Adopted.)

Mr. SUTHERLAND (Cook). I voted for the adoption of section 36, but I wish to serve notice now that at the next meeting of this committee in connection with this matter I reserve the right to reconsider the vote by which that section was adopted, for the purpose of offering some amendment.

Mr. GREEN (Champaign). I move that we rise and report progress.

(Adopted.)

Whereupon President Woodward presided.

CHAIRMAN CUTTING (Cook). Mr. President, the Committee on Judiciary having under consideration the report of the committee, wishes to report progress and asks leave to sit again.

(Adopted.)

Mr. HULL (Cook). Mr. President, I offer the report of the Committee on Chicago and Cook County.

(Received.)

Mr. GREEN (Champaign). I move that this convention adjourn until 3 o'clock Monday afternoon.

Adjournment until Monday afternoon.

MONDAY, NOVEMBER 22, 1920.**3:30 o'Clock P. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The journal of Wednesday, November 17th, was placed on the desks of the delegates on last Thursday, and is now subject to correction. There being no corrections proposed, the journal of Wednesday, November 17, 1920, will stand approved.

Reports of standing committees. Introduction first and second reading of proposals. Motions and resolutions. Unfinished business; general orders of the day.

The convention will resolve itself into a Committee of the Whole for the purpose of further considering the report of the committee on judicial department. Judge Cutting is designated to act as chairman of the Committee of the Whole.

(Whereupon the convention resolved itself into a Committee of the Whole with Judge Cutting in the chair.)

CHAIRMAN CUTTING. The committee will be in order. The sections which were not disposed of at the last meeting of the committee are now before you—sections 5, 6 and 7 were not considered at all. Section 35 was passed, as I recall it, and section 47 was to be considered.

Mr. GEE (Lawrence). Mr. Chairman, with reference to section 47 I desire to offer an amendment.

AMENDMENT No. 1.

Amend section 47 by striking out all after the word "Judge" in line six, and inserting the following: "of any other court shall receive any other compensation, perquisite or benefit in any form whatever, nor shall he perform any duties other than judicial, or engage in the practice of the law, in the State of Illinois, as a counsellor, solicitor, or attorney, so long as he shall hold the office of such justice or judge."

Mr. GEE (Lawrence). Mr. Chairman, I would like to suggest to the convention some reasons for the amendment. If you are at all conversant with the way section 47 was reported by the committee, I think it was probably intended in that manner to cover the proposition that I am trying to put to this convention by this amendment, but after looking it over, to my mind it did not seem to be absolutely perfect enough in language to cover the point that I wish to submit to the convention, and that is that no person elected to the office of a judge of any court in Illinois should be engaged in the practice of law in the State of Illinois.

To a great extent this new article of ours, which we are going to submit, revolutionizes the courts. It increases the jurisdiction of certain courts, and as a consequence expects a great deal from the courts who shall administer the law in the future, if this Constitution is adopted. I don't know what the observation has been, or the conditions in other counties, but in counties in the district from which I have come, particularly with reference to the county judge, he acts as the probate judge; to some extent he acts as judge and an advisor and an attorney in different matters.

It is pretty hard, it seems to me, for a man to disassociate his mind to such an extent that he can be an arbiter, as a judge, of the matters submitted to him for his decision, and also be interested in something that may grow out of that, or be in it as a counsellor or attorney. We are going

to leave it to the legislature to fix salaries, and I think it may go without controversy that the legislature generally is liberal along that line. So that the man who in the future will desire the position of a judge, ought to be satisfied to be a judge and nothing else during the time that he is a judge. So I have introduced this amendment which will forbid any judge in any court hereafter to practice law, act as counsellor, or engage in the practice of the law in the State of Illinois.

Mr. DEYOUNG (Cook). Will the gentleman from Lawrence yield to a question?

Mr. GEE (Lawrence). Yes, sir.

Mr. DEYOUNG (Cook). You make your amendment apply to judges, including those from the county courts, as I understand it?

Mr. GEE (Lawrence). Yes, sir.

Mr. DEYOUNG (Cook). Of course, the committee omitted county judges because in the past county judges have been permitted to practice law, and in certain counties of this State that probably will continue to be the case, will it not?

Mr. GEE (Lawrence). I think there is as much potent reason why a county judge should be relieved of the duties as an attorney, as any other higher judge.

Mr. DEYOUNG (Cook). I quite agree with the gentleman from Lawrence.

Mr. GEE (Lawrence). Here is the situation in the smaller county. The county judge is frequently called upon in the first instance in the administration of an estate, and his advice is sought by those who have no knowledge about the procedure in law, and speaking from a professional point of view, I think he has an unfair advantage. He can advise what lawyer to employ, he can get himself employed directly or indirectly. He may get into the other court in partition proceedings. He may have the construction of a will come up, and a number of things that are very important.

Mr. DEYOUNG (Cook). Mr. Chairman, I am sure that so far as I am concerned, I would not at all dissent from what the gentleman from Lawrence has said, but there is a practical difficulty here. It was that the salaries of the county judges in all counties of the State will not be sufficient so that you will be able to get men of proper qualifications to become county judges and prohibit them from practicing law, even to a slight extent. Now, that is the only difficulty we have.

Mr. GEE (Lawrence). Well, I am going to give it to you in this form, that we are going to have the legislature fix the salaries for all these State judges, to be paid from the State treasury. Theoretically, I suppose some judges will not in small counties get as much salaries as in the larger counties, but I think we can safely trust the legislature to give the judges of the smaller counties of the State a sufficient salary, at least, equal to what he could make from practicing law in the county.

Mr. DEYOUNG (Cook). I do not pretend to be acquainted with what the lawyer's income may be in such counties, for instance, as Calhoun or Hardin or Wabash, but it might be a difficult thing to get a man of proper attainments to take the judicial position if the salary should be fixed in those small counties, say, at \$1,200 a year. Suppose the legislature saw fit to make that the salary for counties having a population of less than 10,000, for a county judge?

Mr. GEE (Lawrence). In our small counties—I know the counties where the county board allows some less than that, probably half of it.

Mr. DEYOUNG (Cook). But they practice law, you understand.

Mr. GEE (Lawrence). Well, some do not get much law to practice, because they don't know enough law to even practice as a judge, but they get along some way.

Mr. DEYOUNG (Cook). Well, it is quite important to have men of some qualifications upon this new county court with a wider jurisdiction than the present county court. I believe one of the county judges, from Wabash county, told us that his salary was \$800 a year. Suppose the legis-

lature might increase that by 50 per cent. Then he would only get \$1,200. And to say to a lawyer that he must be the judge of a county, and with no other opportunity for additional income, might keep a number of men off the county bench. That is the only trouble the committee had with that.

Mr. GEE (Lawrence). I think none of them will ever get less than \$2,500. I am afraid they will get too much from the legislature.

Mr. DEYOUNG (Cook). You say that no judge of any other court. You have been referring that to judges of courts of record. You do not pretend to include justices of the peace in that, do you?

Mr. GEE (Lawrence). I do not class a justice of the peace as a judge in the sense I mean the term.

Mr. WALL (Pulaski). Mr. Chairman, I realize the fact that the distinguished chairman of the judicial committee probably does not understand conditions down State and in the smaller counties as well as we do, and that is not at all to be expected, but I would say in support of this amendment that if the legislature fixes a salary of \$1,500 a year and upwards for those small counties, that the lawyer who occupies the position as judge will make as much money as he would make as an average lawyer out of the regular practice.

There are many counties like mine and Judge Lindly's and others in the class from 15 to 18 thousand where the average fees of the lawyers that they collect during the year does not amount to \$1,500 a year. I know that is true in my county. We have 10 lawyers, and I know that the fees of all put together will not exceed \$10,000, but there are probably only four or five of those who get any practice at all, or pretend to practice.

I am for this for the reason that the dangers spoken of by the delegate from Lawrence are so apparent that when we consider them for a moment, that it is a nefarious condition in some counties. County judges have been receiving salaries from \$400 up to \$1,200 in those small counties. Union county pays \$1,000; Johnson county pays \$700. I know that six years ago I was in Hardin county, I think that has between 9,000 and 10,000 people, and they paid \$300 a year to the county judge, and he was an ex-justice of the peace, who had been elected county judge.

Now, those who are licensed and admitted to practice law, who are county judges in those smaller counties, have the inducement held out to them, and they cannot be very much blamed for taking it—when a man dies and leaves an estate and there are several children, and there isn't perfect harmony, and they come into the county judge to petition for an administrator or something of that kind, he inquires into it, and he acts in a sort of fatherly way, and the widow, if there is a surviving widow, and the children if there is no widow, are ingratiated by this confidence, and the first thing you know there is a partition suit started. Now, I don't say this applies in many cases, but I am showing you that the inducement is there. Now, that is only one sample of the many that I regard unethical acts occasioned, possibly, by necessity.

I think the convention here ought to adopt a principle that will avoid that. I think the legislature will be liberal enough in the salaries to give a lawyer what he now makes as a practitioner if he is elected to the bench, and that he therefore ought not to practice law if he is elected. I am for this amendment, for those reasons.

Mr. DEYOUNG (Cook). Mr. Chairman, may I say to the distinguished gentleman from Pulaski that I certainly agree upon the principle, and I would be one of the very last to object to it, that a judicial officer ought not to be engaged in the practice of law, even to the slightest extent. It is only a practical situation that seemed to have come with conditions in the country, that some who have acquaintance with conditions in the country more than I possibly could have, have said that it ought not to apply to county judges. As I had drawn it in the beginning, it had included the judges of all courts, including county courts, so there is no difference of opinion between us, and I do not need to be persuaded on that subject at all.

Mr. WALL (Pulaski). It is purely a practical proposition with you.

Mr. DEYOUNG (Cook). Absolutely.

Mr. WALL (Pulaski). But I think your judgment in the first place was correct, when you included all courts.

Mr. DEYOUNG (Cook). May I say, Mr. Chairman, that in this section 47 there are other matters, as well as the pending amendment, which it seems to us ought to have attention. The other day the gentleman from Schuyler called our attention to the fact that the salaries of county judges by this report to be fixed by the General Assembly could not be fixed until after the consolidation of the county court, and for that reason there would be a period during which these judges would hold office when their salaries could not be fixed by reason of the provision that they could not be increased or decreased during their term of office; and coming down on the train today, the gentleman from Cook, Judge Dupuy, called my attention to the further omission in section 47, that the judges of the Appellate Court in the first district, under section 47, might only receive—in fact, their salaries are not fixed at all. You understand that the circuit judges of Cook county now are compensated in part by the State and in part by the County of Cook, so that in other respects section 47 needs attention, and with the assent of the committee, I believe that perhaps during the recess of this body the gentleman from Lawrence, the gentleman from Pulaski, Judge Dupuy and others of us might undertake a revision of section 47, and then submit it to this body, and I think that we ought to do it then without delay to the Committee of the Whole at the present time. Unquestionably, you can see that from the point of view of the county judge and the judge of the Appellate Court of the first district, section 47 does need attention.

I ask, therefore, that it be temporarily passed until we can consider the whole matter, Mr. Chairman, and then submit it to this body without involving the delay which the consideration just now would necessarily involve.

(Leave granted.)

(Section 33 read.)

Mr. DEYOUNG (Cook). Mr. Chairman, the gentleman from Cook called our attention to the fact that section 33, by reason of the ownership by the County of Cook of the criminal court building might, as he properly stated, give rise to some litigation between the city and the county. As suggested now, I move that we pass that section along with section 47, so that both may be considered.

(Leave granted.)

CHAIRMAN CUTTING. Will Delegate DeYoung take the chair? I have a long distance phone from home.

(Section 5 read.)

Mr. GREEN (Champaign). Mr. Chairman, might it not be well to consider sections 5 and 6 together?

(Section 6 read.)

Mr. GREEN (Champaign). Mr. Chairman, to get the matter before the convention, I move to substitute sections 5 and 6 as reported in the Proposal No. 384 from the committee, for sections 5 and 6 in Proposal No. 383.

(Sections 5 and 6 read.)

Mr. GREEN (Champaign). Mr. Chairman, it had been the plan of the committee that Judge Mack would present this matter in the first instance, but he is not here.

I am just advised, Mr. Chairman, that Judge Cutting, on account of illness, will probably have to leave the convention. He is very much interested in this section of the report, and the committee will all remember the controversial views expressed between him and different members of this committee, and I should not want under any circumstances to have this taken up without full opportunity of Judge Cutting to participate in the debate. I think, therefore, we ought not to proceed with it.

CHAIRMAN CUTTING (Cook). Mr. Chairman, I have just received a telephone message that my wife is very much worse. I do not see how it is possible for me to participate in the debate which I had prepared for under those conditions. I would not have been here under any circumstances than that his matter, which I consider most important, should be fully discussed. While it is true, I suppose, that I cannot get a train until midnight, yet under the circumstances I do not feel very much like talking on this subject, and if it can be deferred to some other time, I should regard it as a great favor.

Mr. GREEN (Champaign). Mr. Chairman, I move we proceed with the next order of business on the calendar.

Mr. LINDLY (Bond). Mr. Chairman, I move as a substitute that this committee rise and report progress, and ask leave to sit again.

(Motion carried.)

PRESIDENT WOODWARD. The meeting will please come to order.

Mr. DEYOUNG (Cook). Mr. President, the Committee of the Whole, which had under consideration the report of the Committee on Judicial Department, reports progress and asks leave to sit again.

PRESIDENT WOODWARD. The question is upon the adoption of the report of the Committee of the Whole reporting progress and asking leave to sit again.

(Report adopted.)

PRESIDENT WOODWARD. The next order of business as fixed by the convention is the hearing of the report of the Committee on Initiative and Referendum. The convention, therefore, will resolve itself into the committee of the whole for the purpose of considering that report. The chair designates Delegate Dove to act as chairman of the Committee of the Whole.

(Whereupon the convention resolved itself into a Committee of the Whole with Delegate Dove presiding.)

CHAIRMAN DOVE. If the committee will please come to order, and before taking up the discussion of the several proposals pending before the committee from the Committee on Initiative, Referendum and Recall, there is another matter, a matter of unfinished business, which I wish to bring to the attention of the committee.

You will recall that on February 17th this committee was addressed by a number of proponents for the Initiative and Referendum. Among those who addressed the committee was Dr. Herbert S. Bigelow, who had formerly been president of the Constitutional Convention in Ohio, and who was brought to this committee at our request and invitation. At the conclusion of Dr. Bigelow's address, he signified a willingness to be interrogated, and a number of the members of the committee did interrogate him quite extensively. Page 69 of the debates of this convention, under date of Tuesday, February 17, discloses the fact that the delegate from Cook, Mr. Sutherland, interrogated Dr. Bigelow quite extensively, and on page 61 of the debates Mr. Sutherland asked Dr. Bigelow whether he was the same Herbert S. Bigelow who was pastor of the People's Church in Cincinnati. This question was followed by another, and for the purpose of reference only I wish to read that question. It is found on the bottom of page 61:

"Are you the Mr. Herbert S. Bigelow who on the evening of October 28th went to address a socialist meeting at York and 60th street in Newport, Kentucky, across the river from Cincinnati, was kidnapped and taken in an automobile to Boone county, Kentucky, to a lonely spot, and there beaten and otherwise violently treated because of your pacifist activities while your country was at war?"

And Dr. Bigelow, as you remember, sought the protection of the chair. The damage, however, was done the moment that these questions were asked. I am frank to confess, gentlemen, that I do not believe that they were relevant or material to the question then being discussed, and I firmly believe they were asked more for the purpose of embarrassing and humiliating the speaker than to throw any light upon the Initiative and Referen-

dum. Following that question, however—and the damage was done as soon as it was asked—Dr. Bigelow requested that he be permitted to make a complete statement of the occurrences of that affair, and he asked, as shown about the middle of page 69, the privilege of sending to the convention, that it may be made a part of the records of this convention, the evidence to which he referred, and that consent was granted him by this committee, as shown at the top of page 71.

Now, shortly after that the chairman of this committee received from Dr. Bigelow the instruments and documents which he desires incorporated into the proceedings of this convention. There are some seven of these various documents.

First, two paragraphs from the Cincinnati Commercial Tribune of February 5, 1917. Second, a paragraph from the Cincinnati Enquirer of April 22, 1917. Third, an extract of a letter written by Dr. Bigelow to Mrs. Felz in May, 1917, published in her newspaper, the New York Public, in the issue of November 3, 1917. Fourth, a telegram sent by Dr. Bigelow to Secretary of War Baker September 5, 1917, and the reply thereto. Fifth, headlines from the Milwaukee Sentinel of September 8, 1917. Sixth, the prayer referred to by Dr. Bigelow in his remarks, and seventh, a letter from Mr. George W. Harris to Dr. Bigelow concerning the Cincinnati Southern Railway, and two exhibits attached to said letter, to which letter Dr. Bigelow had referred in his address.

All of these are certified to by Dr. Bigelow under oath as true copies of the originals, and I am now handing to the clerk these documents which Dr. Bigelow asked to be incorporated in our record, and will ask the clerk to please read them.

STATE OF OHIO, }
COUNTY OF HAMILTON. } ss.

Herbert S. Bigelow, being first duly sworn, says that copies of telegrams, newspaper articles, etc., hereto attached, are true copies of the original papers.

HERBERT S. BIGELOW.

Sworn to before me and subscribed in my presence, this 23rd day of April, 1920.

ED. F. ALEXANDER,
Notary Public, Hamilton County, Ohio.

The following paragraphs are quoted from the issue of the Cincinnati Commercial Tribune of February 5, 1917:

"I am ready to go to war if necessary. I shall not be the last—I want to be the first to offer my services to my government if it calls for volunteers." Loud applause greeted this declaration by Herbert S. Bigelow before the People's Church in the Grand Opera House yesterday afternoon.

"Although I am a pacifist and look upon war as terrible," he continued, "I believe that a citizen should be ready to fight for his country in return for the benefits he enjoys as a citizen. I am for my country right or wrong."

The following paragraph is quoted from the issue of the Cincinnati Enquirer of April 22nd, 1917.

"Evidences of a division of feeling between Mr. Bigelow and a portion of his flock were discerned throughout the meeting. His declarations favoring prosecution of the war, now that it has been declared, to a speedy conclusion did not find favor with the anti-war element of his congregation."

In refutation of aspersions on Mr. Bigelow's loyalty, Mrs. Mary Fels published in her paper, the "New York Public," of the issue of November 3, 1917, the following extract of a letter written by Mr. Bigelow to Mrs. Fels in May, 1917:

"I took the stand concerning the war that I did not have the information to warrant me in saying that Wilson's course was not for the best, and that I certainly had no warrant in joining in any attack on the motives of the President. In view of the decision that had been made by the government, I said that Germany should stop fighting and agree to peace terms outlined

by the President's January 23 speech. Therefore I said I became a partisan of our government and advise all others to put aside their misgivings now and help in every way consistent with their conscience."

The following telegram was sent by Mr. Bigelow to Secretary of War Baker on September 5th, 1917:

Hon. Newton D. Baker, Washington, D. C.

I am invited to speak in Milwaukee Friday night under the auspices of Socialist Party. I request information as to the government's intention with reference to the Milwaukee meeting. I do not approve of the so-called majority report of the Socialist Party on the war. I believe that President Wilson's answer to the Pope satisfied American public opinion and that the war should be prosecuted on that basis, but I think that most Socialists are misunderstood and that the suppression of their press and meetings prevents that reconciliation to the war program which would rapidly develop if they were free to talk their hearts out about it. I ask for them as well as myself the right to be judged after we speak and not before. Will you kindly address a reply, tomorrow, if possible, to the Grand Pacific Hotel, Chicago.

HERBERT S. BIGELOW.

To this telegram Mr. Baker replied as follows on September 6:

"I can learn of no intention on the part of any department of the government here to interfere in any way with the meeting to which you refer."

In reporting the speech of Mr. Bigelow delivered in Milwaukee on the 8th of September, 1917, the "Milwaukee Sentinel" used the following headlines:

"Socialist Speaker Praises Wilson. Milwaukee Audience Disappointed by the Rev. H. S. Bigelow's Statement of Principles. Should Assist United States." We all should work, hope and pray to help government, he declares.

The prayer referred to so outrageously by the headlines of the newspapers as a prayer for the repose of the soul of the Kaiser, was later published verbatim in the Cincinnati newspapers, and it is as follows:

Our Father in Heaven, as at the day of Pentecost Thy spirit descended upon the multitudes, teaching peoples of strange tongues to understand one another, causing them to disregard worldly possessions and filling them with a strange passion for brotherhood, so may Thy spirit descend upon the war camps of Europe, teaching Germans and Frenchmen and Britons and Americans to understand the language of each other's hearts, their hunger for peace, their yearning for brotherhood; and just as of old, moved by Thy spirit, the multitude cast away their worldly goods, in their Pentecostal fervor, so may the German soldiers throw down their arms by the millions, and may Britons, Frenchmen and Americans, seized by the same divine sadness, cast away their weapons of murder.

Grant us, O God, this miracle: May all the peoples of the earth discover speedily that it is not revenge and blood and victory that they desire, but love and peace and federation.

Save the souls of the Emperor of Germany and the proud men surrounding him—save, from their pride, all the Kings and Presidents and rulers of the earth—save us from shameful boastings; save us from vehement speech; save us from the deadly sin of self-righteousness.

May all the world, repenting, in tears of blood, be forgiven these fearful crimes. May all the rulers of the armies of the earth come and kneel at the foot of the Cross of Christ and pray; that evil may be overcome with good; that hate and violence may be conquered by love. Amen.

The figures concerning the Cincinnati Southern Railroad, which were questioned by a member of the Convention, are set forth in the following letter of Mr. George W. Harris, then President of the Cincinnati Sinking Fund Trustees:

CINCINNATI, OHIO, November 9, 1906.

Mr. Herbert S. Bigelow, Cincinnati, Ohio.

DEAR SIR: I have your letter of the 8th inst., in which you refer to a written proposition made to the City of Cincinnati on June 23, 1896, by A.

B. Andrews and Henry Taylor for the purchase of the Cincinnati Southern Railroad; and further you ask me to state how much, in my judgment, the City of Cincinnati will profit in money by having rejected this proposition by popular vote, and by having subsequently leased the road to Samuel Spencer and associates for a period of sixty years from October 12, 1906.

I comply with your request by attaching hereto:

EXHIBIT "A."

Showing in detail the gross receipts from rentals and sale under above referred to proposition from A. B. Andrews and Henry

Taylor	\$ 98,985,900
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EXHIBIT "B."

Showing in detail the gross receipts from rentals and from the hypothetical sale in 1926 under the existing lease.....	149,931,800
Profit to the city by voting down the proposition of Andrews and Taylor	52,935,900
Allowing 3½ per cent per annum as a fair rate of interest, the City of Cincinnati will have gained in 1996 the sum of.....	322,000,000

I call your attention to Item 5 under the Andrews-Taylor proposition. I have designated this item as "Indeterminate" because there is no way of figuring with any degree of accuracy what will be the annual "gross earnings" of the road in excess of four and one-half million dollars. These "gross earnings" could be manipulated by the owners, through the agency of connecting lines under the same ownership or control. If, however, we were to assume that the "Gross earnings" under the above referred, to Item No. 5 were to average, eight and one-half million dollars annually, thereby increasing the income to the city by the annual sum of four hundred thousand dollars (being 10 per cent of the excess over four and one-half million dollars), and amounting in one hundred years to forty million dollars, this would be off-set by the additional rental the city would be able to secure for thirty years from 1966 to 1996; for if the earnings of the road were so much in excess of what was contemplated when the present lease was made, it follows naturally that instead of again leasing the road at \$1,200,000 per annum in 1966, when the present lease expires, the city would be able to lease it at two and one-quarter million dollars per annum, which would increase the receipts these last thirty years (namely, from 1966 to 1996), over thirty million dollars.

In addition, if the road were to show average gross earnings of eight and one-half million dollars annually for a period of one hundred years, the cash value of the road at the end of this period would be sixty to seventy million dollars, instead of thirty-five million dollars which I have named.

It is therefore my firm conviction that for the purpose of making a fair comparison, the figures I have given you are correct.

Very respectfully,

(Signed) GEO. W. HARRIS.

"The item of \$52,935,900 consists of:

Increase from rentals.....	\$36,935,900
Increase from sale of road in 1996.....	16,000,000"

EXHIBIT "A."

GROSS RECEIPTS BY REASON OF THE PROPOSED SALE OF UNDER PROPOSITION DATED JUNE 23, 1896, FROM ANDREWS AND TAYLOR.

1. Principal sum payable in 1996.....	\$19,000,000
2. Interest on \$19,000,000 bonds at 4% per annum amounting to \$760,000 annually for 100 years amounting to.....	76,000,000

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3. \$240,000 per annum for 6 years.....	1,440,000
4. Certain annual ground rents, commencing October 1, 1902, amounting to \$5,808.00 per annum for 94 years, October, 1902, to October, 1996.....	545,900
5. "To pay annually a sum equal to (10) per cent of annual gross earnings in excess of \$4,500,000"—Indeterminate.	
	<hr/> \$96,985,900

EXHIBIT "B."

* GROSS RECEIPTS BY REASON OF THE DEFEAT OF PROPOSED SALE OF ROAD TO
ANDREWS AND TAYLOR.

Five Year Period.....	
October, 1896, to October, 1901, at \$1,090,000.00 per annum..	\$ 5,450,000
Five Year Period.....	
October, 1901, to October, 1906, at \$1,250,000.00 per annum...	6,250,000
Of this amount \$800,000.00 was payable \$40,000.00 per annum for 20 years with interest at 3% per annum.	
Interest on deferred payments say	331,800
Sixty Year Period—Present Lease	
October, 1906, to October, 1966:	
20 years at \$1,050,000.00 per annum	21,000,000
20 years at \$1,100,000.00 per annum	22,000,000
20 years at \$1,200,000.00 per annum	24,000,000
Thirty Year Period Extension	
30 years assumed to at \$1,200,000	36,000,000
1966 to 1996 to bring rentals for same period 100 years contemplated in sale to An- drews and Taylor.....	
For purpose of making proper comparison I assume that at expiration of present lease 1966 there will be no trouble in again leasing for 30 years at same rental as preceding 20 year period.	

Total gross receipts from rentals for period 100 years,
1896 to 1996.....\$114,921,800

Sale of Road in 1996.

I assume that in 1996 the road can be sold for its present value,
which based on its rentals under the existing lease, and said
rentals being capitalized on a 3½% basis would be..... 35,000,000

Total \$149,921,800
In comparison with total gross receipts from rentals and sale
of road under proposition of Andrews and Taylor..... 96,985,900

Net gain for city in voting down the proposition to sell.... \$52,935,900

The increase in rentals with compound interest at three and one-half (3½) per cent per annum together with the increased valuation of the road at the end of the hypothetical leasing period (1996) will amount to not less than two hundred and twenty-two millions dollars (\$222,000,000).

CHAIRMAN DOVE. These documents and instruments were received some time ago. Since that time they have been in the office of the president, and according to our permission granted Dr. Bigelow, they will be incorporated in the proceedings of this convention.

Mr. SUTHERLAND (Cook). The relevancy of the questions which I directed to Mr. Bigelow will appear later in the debate. There is certain matter that should go into the record supplemental to these exhibits presented by Mr. Bigelow. I refer to the following:

MATTER SUPPLEMENTAL TO THE EXHIBITS SUPPLIED BY
HERBERT S. BIGELOW.

In his statement before this convention in Committee of the Whole, Mr. Bigelow made the following assertion (Debates of February 17, page 69):

"Supporting that position I wrote down to my friend, Newton T. Baker of the War Department, offering to enlist, and that was before the draft act, and before any laws had been passed that excluded one of my age. I will place in the records of this convention the letter in my possession which I received from the War Department, acknowledging my offer and thanking me for it."

Mr. Bigelow has not included a copy of any such correspondence with the data he has forwarded.

At the close of his statement, in which he attributed his ill treatment at the hands of a Kentucky mob to his opposition to the public utilities interests in Cincinnati, instead of to his anti-war expressions, Mr. Bigelow said (Page 70, Debates of February 17):

"And I have evidence in my possession that there were public utilities people who paid two saloon keepers money to hire chauffeurs and the cars to do this thing."

Mr. Bigelow has included no such evidence with the data which he has forwarded, and in this connection is submitted the following letter, received by the delegate from the fifth senatorial district, Col. Abel Davis of Cook county:

Office of
The Commonwealth's Attorney,
Seventh Judicial District,
Covington, Kentucky.

Covington, Kentucky, February 28, 1920.

Col. Abel Davis, Constitutional Convention, Springfield, Illinois:

Dear Sir: Captain Victor Heintz recently wrote Mr. Louis P. Lewin, requesting him to write you with reference to the war activities of one Herbert S. Bigelow. Mr. Lewin has referred the matter to me, and also sent me a copy of Mr. Heintz's letter to you, dated February 18, 1920.

I have read the article in the Chicago Tribune of February 18 with indignation. All during the war Mr. Bigelow was well known throughout Cincinnati, Ohio, and the northern portion of Kentucky, as a pacifist. His associates were persons not at all in sympathy with the war. On every occasion possible, he ridiculed efforts to arouse patriotic sentiment, e. g.—he told of an incident in the public square, where the citizens of some small town had raised the American flag, and had adopted the custom of tipping their hats as they passed the flag, and how he had gone around the square to avoid complying with this custom.

His activities during the war were absolutely negative, up until October 1917, when they ceased altogether. This is due to the fact that the failure of Brother Bigelow to go along with the war aroused indignation in a number of patriotic citizens who met him as he was getting off the car, to

address a gang of socialists in Newport, and entertained him with a moon-light party in Kentucky.

If Bigelow says he was kidnapped and whipped because he opposed the Green line franchise in Cincinnati, he is a liar, and if he says that he can name two saloon keepers who hired two chauffeurs to take his assailants to the woods, bet him all you have that he cannot.

Everybody in this community, including about two thousand gentlemen who are not saloon keepers or chauffeurs, understands why Bigelow was whipped.

It might also be interesting for you to know that Brother Bigelow's name is not Bigelow, but Seeley. I invited Bigelow to appear before the grand jury and tell what he knew about being whipped, but the gentleman has to date not appeared.

I am inclosing you herewith a number of clippings, which I wish you would return to me after you have used them. Very truly,

(Signed)

STEPHENS C. BLAKELY,

SLB:MF.

Commonwealth's Attorney.

The following are quotations from the article from the Milwaukee Sentinel of September 8, 1917, of which Mr. Bigelow has supplied only the headlines:

"At the conclusion of an address to a gathering of Socialists at a peace meeting held in Plankinton Hall auditorium Friday night, the Rev. H. S. Bigelow, Cincinnati Socialist, presented his audience with a resolution which he said was to furnish the newspapers with 'an actual statement of his own,' which he termed a 'sane and just attitude' toward the war.

"The real underlying fundamental cause of the war is not political, it is economic," he said, "and, while peace would be more secure if political democracy were established the world over, yet we believe that we shall never be free of the menace of war until we have destroyed those great institutions of civilization by which the laborer of the world is deprived of the fruits and wealth held by the few."

He spoke sparingly of the President and his praise for Wilson was ostensibly a disappointment to his audience.

"I fear there is danger that instead of a complete disarmament of all the nations, we will fasten universal military service on ourselves," he said.

"I think we should strive to believe in the high patriotism of our President and Government and hope with all our might that those things will come to the world which he says we are fighting for. I think we have almost come to peace."

He discussed Wilson's answer to the Pope's peace proposal, which he said was a virtual guarantee to Germany of all the things she asked for in her peace proposal in January, with the exception that "the foreign minister shall be responsible not to the Kaiser, but to the German elective assembly, the reichstag," and he said the answer was addressed not to the Pope or Germany, but to France and England."

The following is a copy of the remainder of the article in the Cincinnati Enquirer on Monday, October 29, 1917, which includes the so-called "Peace Prayer" of which Mr. Bigelow has forwarded a copy, and which shows that this prayer, together with the proclamation issued by President Wilson in September, 1914, calling for a day of prayer for world peace, was read by Mr. Bigelow at a public meeting on Sunday, October 28, 1917, the day set apart by proclamation of the President for prayers for victory for the American army:

From Enquirer, Monday, October 29, 1917:

"A prayer that the soul of the Emperor of Germany be saved and that the millions of men on European battlefields might throw away their arms, was offered by Herbert S. Bigelow yesterday afternoon at the Grand Opera House. Mr. Bigelow declared that the President was much more eloquent when he prayed for peace than when he prayed for victory. Instead of

reading the proclamation which made yesterday a day of prayer for the success of the American armies, he read the proclamation of the President issued September 8, 1914, which called for a day of prayer for world peace.

Mr. Bigelow has submitted a quotation from an article in the Cincinnati Enquirer of February 5, 1917, reporting a meeting of his "People's Church" in the Cincinnati Grand Opera House on Sunday, February 4, 1917, and quoting Mr. Bigelow as saying that he was ready to fight for his country if necessary. In this connection the records should include the following additional quotations from the same newspaper article, of which Mr. Bigelow gives only a brief excerpt:

**"BIGELOW READY TO SERVE LAND, BUT IS CONFIDENT
PRESIDENT WILL PREVENT CONFLICT—FAVORS A
REFERENDUM VOTE IF CONGRESS DECLARES
WAR."**

"In the event of a declaration of war by Congress, Bigelow proposed that it be submitted to a referendum vote of all the people, men and women. He suggested that we might meet Germany's action by using our battleships to establish a path of safety in the sea for our merchant vessels, thus avoiding an actual declaration of war."

The following paragraph from the Cincinnati Enquirer of Monday, February 12, 1917, also should appear in the records:

"At the conclusion of his address at the Grand Opera House meeting of the People's Church yesterday afternoon, Herbert S. Bigelow proposed to his audience that he be directed to send a telegram to President Wilson seeking a referendum vote of men and women in the United States on a declaration of war and enforced military service for conscription laws. By a rising vote the audience, with but four dissenting voices, sanctioned the proposal."

In connection with the quotation from the Cincinnati Enquirer of April 22, 1917, forwarded by Mr. Bigelow, the following excerpt from the same article quoting Mr. Bigelow's attitude should be included:

"Excitement bordering upon disorder marked adoption of resolutions by the People's Church yesterday protesting against passage of a bill now pending in Congress providing for raising an army by selective draft."

"Daniel Kiefer proposed adoption of the resolutions at conclusion of an address by Herbert Bigelow, who opposed the draft system, suggesting in its stead a volunteer system of recruiting."

"A viva voce vote recorded the assembly unanimously in favor of the resolution, copies of which were sent by telegraph to members of the military committee of both Houses of Congress and to the senators and representatives from Ohio."

"Non-resistance was recommended by the speaker as a policy, the adoption of which would keep the country out of war. Closing of American ports and embargoes on all shipping so long as England maintained its mines in the North Sea and Germany its submarines in the open sea, he maintained would have kept the United States out of the conflict."

"Had the French people been kind and hospitable to the invading Germans at the outbreak of the war, the Germans would have gone to Paris, looked around for a few days and then returned home," added Mr. Bigelow.

CHAIRMAN DOVE. Does the gentleman make any motion?

Mr. SUTHERLAND (Cook). I simply wish to have the debate as printed show this matter as supplemental to the matter already placed in the record.

CHAIRMAN DOVE. Well, it is already a part of the record. Proceeding with the matter now before the committee, may I say that there were four proposals with reference to Initiative and Referendum submitted to our committee. All of those proposals have been rejected, and a substitute has been reported by a majority of our committee providing for a legis-

lative Initiative and Referendum. That proposal is No. 367, and that is the majority report. Mr. Corcoran submitted a minority report providing for a legislative Initiative and Referendum and a Constitutional initiative, and his report appears as proposal 368. A further minority report was submitted providing for a Constitutional Initiative, and it is proposal 371. In addition to those, there is a further minority report recommending that this committee do not incorporate any Initiative and Referendum in the Constitution of 1920. That report has not been printed as a separate report, but is found in the proceedings of Thursday, May 20, 1920. Under our rules these reports will all be read. I have taken the matter up with a number of the members of our committee and with others, and it seems to be deemed advisable to bring this question before the committee by a motion to substitute this last minority report for the majority report. It seems to me the committee will save considerable time by pursuing that course.

Mr. CORCORAN (Cook). I object to that. That shuts out my minority report.

CHAIRMAN DOVE. Not at all.

Mr. CORCORAN (Cook). If you substitute this other, that will simply preclude my report from being introduced.

CHAIRMAN DOVE. Would not your report be shut out any way if the committee takes that action?

Mr. CORCORAN (Cook). I think we should take up the majority report, and move to make that the report of the committee, and give those favoring the minority reports a chance to offer a substitute.

CHAIRMAN DOVE. The Chair has no desire to say what the course of procedure shall be. It occurred to me, however, that that would be the most expeditious procedure.

Mr. HULL (Cook). It might be, provided the committee should sustain the minority report, but it would leave a feeling on the part of some members of the committee that their alternative proposals had not had a fair opportunity for discussion, and if the initiative and referendum in any form is to be beaten, it would seem to me it would be better to have it beaten in detail, than by one resolution. That may take a little time, but I believe it would save a lot of bad feeling.

Mr. WHITMAN (Boone). I raise the point of order that under our rules those reports should be read before any action is taken or any motion made.

CHAIRMAN DOVE. The point is well taken. The clerk will please read all of the reports.

(Majority report and three minority reports read.)

Mr. CORCORAN (Cook). Through error, the first five lines in section eight of my minority report number 368, were printed. I ask unanimous consent to have them stricken out.

(Consent granted.)

CHAIRMAN DOVE. For the purpose of making a motion, I will ask Mr. Latchford to take the Chair.

(Mr. Latchford of Cook then took the Chair.)

Mr. DOVE (Shelby). I now move that the minority report which was last read be substituted for the majority report.

Mr. CORCORAN (Cook). There has been no motion to pass the majority report.

Mr. DOVE (Shelby). The motion is to substitute the minority for the majority, and I assure you that there is no intention to limit the debate on this question, or take any undue advantage of any one, but I think it should have full discussion, but there is no earthly sense in debating a specific section when we have not determined whether we want any form of Initiative or Referendum in the Constitution. I would like to speak for a moment upon my motion. I recognize that this subject has been discussed so exhaustively before this committee, that I am convinced the majority of this committee have already determined whether they shall support the majority or minority report. Upon this subject I believe the majority of

this committee has well defined and fixed opinions. I am a firm believer in representative government, and I have exemplified that by joining with six other members in recommending to you that the Constitution of 1920 shall contain no legislative Initiative and Referendum or Constitutional Initiative, and further, by urging upon you to substitute this minority report for the majority. Pursuant to the public policy law of this State adopted in 1901, there were submitted to the voters at the election at which we were chosen delegates three so-called public policy questions. Two of them are germane to the subject under discussion, and for the purpose of putting them in the record I want to read them.

Proposed Public Policy question No. 1: Shall the members of the fifth Constitutional Convention be instructed to submit a proposal for the Initiative and referendum, the term initiative as herein used meaning the power to bring proposed laws and constitutional amendments to popular vote at any regular election by petition of one hundred thousand electors at large, all measures so submitted to become laws when approved by a majority of those voting thereon; the term referendum as herein used meaning the power to suspend specific act or acts of the legislature by petition of fifty thousand electors at large until such act or acts shall have been referred to popular vote and approved by a majority of those voting thereon, said power of Initiative and Referendum also to be understood as being extend by the Constitution to the electors of every municipality and other political subdivision or district of the State; and to apply to all local, special and municipal legislation in or for their respective municipalities, subdivisions or districts.

Proposed Public Policy question No. 2: Shall the members of the fifth Constitutional Convention be instructed to submit the proposal for the Initiative and Referendum as defined in question No. 1 for a separate vote in such manner that said proposal, if approved by a majority of those voting thereon, shall take effect either as part of a new Constitution or as an amendment of Article 4, Section 1 of the present Constitution.

Mr. CARLSTROM (Mercer). A point of order. Rule 45 on page 50 of the Convention Rules defines specifically in what manner proposals from committees shall be considered, saying that they shall be read first at length, and then read and acted upon by sections. Those are our rules under which we must proceed, and it is a loss of time to discuss the second minority report when we are first required to consider the majority report by sections.

CHAIRMAN LATCHFORD. Please read the rule.

(Rule 45 read.)

Mr. GALE (Knox). These proposals have been read through, and now we are considering the majority proposal section by section. There is offered to us now a report which takes the place of section one and every other section. Why is not the proper time to consider it right now? If we adopt the minority report even as to section 1, does it not dispose of the whole matter?

Mr. CORCORAN (Cook). I raise the point of order that there has been no motion to adopt the majority report, and that would be the proper procedure.

Mr. CARLSTROM (Mercer). Yes, and we have not even read the first section. Otherwise, we are departing not only from the method of procedure prescribed in our rules, but we are seeking here by subterfuge to throttle discussion of a matter that is entitled to full discussion, and which it would be a fatal error not to discuss.

Mr. LINDLY (Bond). I think the point of the gentleman from Mercer is not well taken, because before you can get the majority report before the House, there must be a motion that it be adopted. When that is made, then you make it up section by section, unless a substitute has been offered; and even the motion of the gentleman from Shelby is not in order at this time. The order of procedure should be the reading of the report of the majority committee, a motion to adopt it, and then the offering of a sub-

stitute—which cannot be offered for something not before the House, and the majority report is not before the House until a motion to adopt is made.

Mr. CARLSTROM (Mercer). A motion to adopt the majority report as an entirety would be out of order. Only the reading of the first section should be followed by a motion to adopt, and then we would be following a procedure laid down by this committee.

Mr. LINDLY (Bond). It would not be before the House for the purpose of reading the first section until a motion was made.

CHAIRMAN LATCHFORD. I assume you want to give this proposal a thorough hearing, and therefore I will rule that the point of the gentleman from Mercer is well taken.

Mr. WOLFF (Cook). I now move that we take up section one of majority proposal 367.

Mr. CORCORAN (Cook). Mr. Chairman, I move the substitution of the minority report for the majority report, 368.

Mr. DOVE (Shelby). Mr. Chairman, I raise the same point of order.

CHAIRMAN LATCHFORD. Proceed with the reading of section 1.

Mr. WOLFF (Cook). Mr. Chairman, I move the adoption of that section.

Mr. DOVE (Shelby). I move the substitution of the minority report as read by the clerk for section 1 of the majority report. I would like to be heard upon my motion.

Mr. CORCORAN (Cook). I move the substitution of Proposal 368 for both the majority and minority report.

Mr. DOVE (Shelby). Having settled a matter of procedure, I think the committee now is ready to discuss not only the majority report in its entirety, but likewise free to discuss the advisability or the inadvisability of incorporating a legislative Initiative or Referendum, or the constitutional Initiative in the Constitution which is being drafted here. As I stated a few moments ago, there were two—so-called public policy questions submitted to the electors—

Mr. CORCORAN (Cook). Mr. Chairman, point of order. My motion is to substitute Proposal 368 for both the majority and the minority report.

CHAIRMAN LATCHFORD. Mr. Dove has moved that his minority report be adopted.

Mr. CORCORAN (Cook). Mr. Dove is not talking about the motion. He is talking to his own motion.

CHAIRMAN LATCHFORD. Proceed.

Mr. DOVE (Shelby). These two public policy questions which were submitted to the voters at the election at which we were chosen delegates to this convention, propose first to instruct this convention to incorporate in the new Constitution an Initiative and Referendum, defining the meaning of those terms; and secondly, to instruct the delegates of this convention to submit an Initiative and Referendum as defined, for separate action by the voters, so that if approved by a majority of those voting thereon such proposal should take effect either as part of the new Constitution or as an amendment to the present Constitution."

The district which I have the honor to represent, Mr. Chairman, is composed of four counties, Christian, Fayette, Cumberland and Shelby. In each of these four counties there was an overwhelming vote against both of these so-called public policy questions. In my district only 2597 affirmative votes were cast on question number one, and 7165 negative votes were cast. And on the second question, 7677 votes were cast against it, while only 2269 votes were cast for it, approximately three and a half votes against both of these propositions to every one vote for them, the people in my district thereby saying to me in terms that cannot be misunderstood that they were not in favor of instructing this Constitutional Convention, or any delegate to it, to incorporate into the new Constitution any Initiative and Referendum, and likewise were opposed to having these questions, or such a proposal, submitted for separate vote.

The only way I know how to ascertain the will of the people is to ascertain how they expressed themselves when the opportunity presented itself. Here were two questions to which the voters gave expression of their will, and whether they expressed themselves intelligently or not is not a matter of concern just now. I must follow their instruction and I cheerfully register their will.

It was Samuel Adams who said, in substance, that on matters on which the representatives' constituents had spoken, the representative was their delegate to register their will, and on matters on which his constituents had not spoken it was the duty of the representative to vote according to his conviction, and while we here in this convention should have a mind single for the welfare of all the people of the State and not for any particular class or particular section of the State, I would do violence to the expressed wish of those who are responsible for my presence here if I favored the incorporation of any Initiative and Referendum in the Constitution of 1920. The people who elected me have spoken, and as their delegate I cheerfully register their will.

In this matter, as I have said, my constituents have expressed themselves, and while I realize that we here should not bend our efforts for the advantage of any particular class or any particular section of the State, yet where a matter has been squarely presented to them it seems to me I would be doing violence to their will if I did not here oppose the incorporation of these measures.

To those whose judgment conflicts with the instructions given them by their representatives—and there are a number of delegates here whose instructions were just the reverse of what mine were—if to them whose judgment conflicts with the instructions given them by their representative, let me call your attention to a classical utterance of Edmund Burke, when he spoke to the electors of Bristol concerning the real duties of a representative:

"It ought to be the happiness and glory of a representative to live in the strictest union, the clearest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion high respect; their business unremitting attention—but his unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice, he ought not to sacrifice to you, to any man, or to any set of men—your representative owes you not his industry only, but his judgment; and he betrays instead of serving you, if he sacrifices it to your opinion—you choose a member indeed, but when you have chosen him he is not a member of Bristol but he is a member of Parliament."

And so I say to you, whose mature judgment conflicts with the instructions that were given you by your constituents, I commend to you the words of this eminent statesman, and if you follow out his instructions, there can be no question that the minority report will be substituted for the majority report as submitted to this convention.

It is true that the specific working of the measure submitted by the majority report of our committee was not before the people, but the general question of the Initiative and Referendum was freely discussed. It was Governor Dunne who stated to this committee that there was only a one-sided argument down the State. He stated that the Herald-Examiner and the American were the only Chicago papers supporting these measures. It may be true that these measures do owe their overwhelming defeat at the hands of the tried, true and honest electorate of the fortieth senatorial district, as well as most other down the State districts, to the fact that they were so advocated. It may be true that those measures were handicapped by such support. It may be true that any deserving measure would fare far better if it were not sponsored by any of the Hearst papers, and it may be true that a representative of my constituency will more likely correctly record the wishes and desires of those whom he represents if he opposes rather than advocates any measure for which the Hearst papers stand.

But it was not a one-sided argument down State. The Springfield Register rightly enjoys a splendid circulation throughout central Illinois. It advocated these measures.

The farm journals all took an active interest in this election, urged their readers to discuss its importance not only with the farmers but with all, and the acknowledged leader in its field, The Prairie Farmer, published the names of those down State candidates who had pledged themselves to abide by the vote of their district and openly urged their defeat irrespective of their political affiliations. The result in my district was that the only candidate whose name was so published was defeated. I dare say the voters did express their intelligent and considered opinions, and prior to the election I freely stated that I expected to vote against these propositions and refused to sign any pledge or take upon myself any obligation to be bound by the vote of my district upon these matters. I now freely urge the adoption of this minority report.

Section 20 of our Bill of Rights provides that, "A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty." And it is to our Federal Constitution that we go in search of these fundamental principles. There is no question about the founders of our government never intending that the people were actually to make, adjudicate or administer the laws. In a recent work on "American Government and Majority Rule," the author states that "The framers of the Constitution sought to prevent immediate and direct rule of the numerical majority upon the theory that all government was by nature evil and that the people might become as tyrannical as any king."

And the author of the "Six Fundamental Principles of the Constitution," James M. Beck, says:

"However much the fathers disagreed upon other questions, they were substantially of one accord in the opinion that direct legislative action by the people was impracticable. They believed that no wise legislative action was possible without conference and that, in a commonwealth of many scattered communities, such a conference was impracticable, especially in cities where the size of the population made the town meeting impossible.

"Even in New England, the home of the town meeting, it was provided as early as 1635 that whenever a community had more than 5000 inhabitants legislation should be committed to representatives, to whom they gave the title, selectmen. The fathers had in mind the weakness of former republics such as those of Greece and Italy, where the people themselves attempted to enact laws in tumultuous assemblies and where there was only one result—disunion, civil strife and final anarchy."

But you who advocate the majority report insist that representative government has in a measure failed to readily and really reflect public opinion; that so long as the representatives of the people were voting in truth and in fact as their representatives there was no dissatisfaction; that it was not until the representatives had ignored the desire of those whom they assumed to represent that the representative form of government became misrepresentative and it is to make our representative form of government truly representative that the Initiative and Referendum has been introduced.

I concede the high purposes of those who advocate these measures. They do not favor the destruction of representative government any more than I do, and I quite agree with them that these agencies will not destroy or do not destroy our republican form of government guaranteed by the Federal Constitution to every state in the Union. These words in our Federal Constitution were placed there in order to protect the States from ever setting up a monarchy within the republic. It was a guarantee that there should be no monarchy among the states. It was to protect the Union founded on republican principles and many reputable courts have held that the I. & R. does not abolish or destroy our republican form of government and a presidential proclamation has declared that the government of a state

whose constitution contained the I. & R. was republican in form and Congress itself has admitted such states into the Union.

I concede further that in a measure representative government does have weaknesses and in many cases legislatures have failed to translate into action the wishes of the people represented by them. "Often," as stated by Mr. Willoughby in his splendid article on Democratic Government and the Constitution of the U. S., "members of legislatures have used their powers to promote personal or party interests rather than those of the people as a whole. In many instances legislatures have passed acts not desired by the people, or have refused to take the action demanded by the latter."

It was Governor Deneen who said of the General Assembly of this State, one branch of which occupies this very hall, "Never before in the history of the world in any state, has a legislative body existed to which as much deserved stigma attached as has been attached to ours."

And it was Elihu Root who said at the close of the New York Constitutional Convention of 1915: "The legislature of the state has declined in public esteem and the majority of its members occupied themselves chiefly in the promotion of private and local bills which made them cowards and demoralized the whole body."

In 1906 Roosevelt, then President, writing to a friend, said: "To this Harriman answered that whenever it was necessary he could buy a sufficient number of senators and congressmen or state legislatures to protect his interests, and when necessary he could buy the judiciary. These were his own words. He did not say this under any injunction of secrecy to Sherman, and under a cynical spirit of defiance throughout, his tone being that he greatly preferred to have in office demagogues, rather than honest men who treated him fairly, because when he needed he could purchase favors from the former."

While admitting these indictments against legislative bodies and the weaknesses and limitations of representative government, I do not conclude that our legislatures have broken down, or that they have failed to function; but the question then arises, "Is the I. & R. the proper method for correcting or remedying these admitted legislative evils?"

I would not despair if this convention should adopt the majority report. I do not fear the results which so many think would follow, but it does seem to me that the already overburdened voter would be called upon to assume a further load. A long discussion might be entered into showing how the I. & R. has operated in other states but no good purpose could be served thereby. Some 22 states have heretofore adopted some form of Initiative and Referendum, some the direct, others the indirect, and still others a combination of both, and it seems to me that before any member of this committee is warranted in supporting the majority report each should satisfy himself that from the experience in America these so-called corrective implements of representative government have, to some extent at least, remedied the acknowledged weaknesses of representative government. Whether the I. & R. in these states has been a success depends upon the person consulted. Whether they will ever be successful depends upon the public interest manifested and when public indifference is overcome legislative members will respond to the wishes of their constituents and the I. & R. will be unnecessary. Abundant and various are the opinions obtainable and the experience in many of the other states that have adopted these measures is not at all conclusive to my mind that the I. & R. would be successful and acceptable here in Illinois where the conditions that obtain are very different than they are in any of the other states that have adopted these measures. In a recent work the author, after reviewing the operation of these instruments of government, insists that they are losing ground because of the additional burdens they have placed upon the over-loaded shoulders of the voters. That the faith of the people of Illinois in the corrective value of these measures has decreased is indicated by a tabulation of the votes taken in this State in 1902, 1904, 1910 and 1919. They show the waning interest

of the people of Illinois. The vote ranged from 428,469 for the I. & R. in 1902 to almost half that number, or 257,640 in 1919, which was about one-tenth of the vote of the State.

I have an abiding faith in the considered opinion of the majority of our people but with a ballot already as large as a newspaper an intelligent expression even for many important officers is almost an impossibility. Of what value was the referendum on the banking law this November? Did we receive the considered opinion of any considerable number of the voters? In my county 3,187 votes were cast for it and 2,243 votes against it, or a total of 5,436, while 6,348 electors refused to vote either for or against it. Three papers in the county printed the full text of the act and also a summary.

Of course, every one favors the I. & R. in local matters, but the legislative I. & R. in my opinion has disadvantages in Illinois which far outweigh its advantages. I doubt whether the demand for it is so urgent as some would have us believe. I know there is no demand for it among the people whom I particularly represent.

The vice-president elect has said and written some admirable things. In one of his addresses he says:

"The latest, the most modern, the nearest perfect system that statesmanship has devised is representative government. No nation has discarded it and retained liberty."

If by incorporating the majority report in the Constitution of 1920 we would to any extent discard republican government, let us refuse to adopt that report, but rather let us provide, by this document which we are writing, fewer elections, reduce the size of the ballot, thereby making it possible for the people to vote intelligently, and thereby improving the quality of its representatives; thereby making it possible to hold representatives accountable and likewise possible to reward faithful service and by so doing retain republican government and retain liberty.

In supporting this minority report and in urging this committee to refuse to incorporate any legislative I. & R. in the Constitution of 1920 I trust my love for Illinois, my desire for continued good government, and my abiding faith in the people, to run that government will not be questioned or challenged. (Applause.)

CHAIRMAN LATCHFORD. Mr. Dove, will you please take the chair now?

(Mr. Dove resumed the chair.)

Mr. LATCHFORD (Cook). Mr. Chairman, it is now 12 minutes of six, and I move that we take a recess until eight o'clock.

(Motion carried, and the Committee of the Whole thereupon recessed until 8 P. M.)

8:00 O'CLOCK P. M.

Committee met pursuant to recess.

CHAIRMAN DOVE. If the committee will please be in order, we will proceed with the discussion, and the chair will recognize the delegate from Cook, Mr. Latchford.

Mr. LATCHFORD (Cook). Mr. Chairman, and gentlemen of the committee: When it was proposed to call a convention to revise the fundamental law of this State, many topics were discussed among the people. Of these none was more commonly mentioned than the Initiative and Referendum. The people of Illinois had twice voted in favor of such a measure, and it had twice passed both the House and Senate of this State by overwhelming majorities, just falling short of the necessary two-thirds.

It has been said that the plan is un-American, that it involves a radical departure from our established institutions, that it is visionary and experimental. Nothing can be farther from the truth, and if we will dismiss prejudice and consider the facts calmly nothing can be more easily shown than that the I. & R. are widespread and commonly accepted institutions.

In Illinois we have a referendum on constitutional changes. And this is not regarded as a reflection on the character and ability of those who proposed the changes. We have a referendum on State bond issues, which works well, and nobody considers such a law a violation of the principle of representative government. We have referendum on city charters, on local bond issues, on franchises, and other local questions, and no one charges now that these measures are contrary to the principles of our government. Any one who would say that would be laughed at. In 40 cities of Illinois under the commission government we have the Initiative and Referendum in a much less carefully safeguarded form than is here presented. Yet no one considers that representative government in these cities is being destroyed, although the situation is exactly the same in principle.

Most of the ordinances in these cities are still passed by the commissions, but the power to enact ordinances or to veto them is in the hands of the voters of the cities themselves. Representative government in these towns is not suspended or destroyed or subverted. Nor would it be in the State of Illinois if a similar plan were adopted here. If gentlemen would only lay aside prejudice, they would see that the institution they are denouncing as un-American has in some instances been adopted in their home cities or neighboring cities, and that representative government still stands. Instead of looking in the clouds for theories, why not look at the facts as they are, directly before us?

Illinois has had the advisory referendum under the public policy act since 1901; and had made frequent use of it. It has served as a medium for the expression of public opinion on public questions, but of course has the weakness that there is no way of enforcing its suggestions.

The truth is that the I. & R. are common institutions in Illinois and have been for years. They were not the result of theory at all, but of conditions which the people were trying to meet in a practical way. Experience was the guide in the making of the Initiative and Referendum in its dozen different forms in this State. And it is practical experience that has made the plan we present to you necessary and desirable.

Since 1896 some 21 states have adopted the Initiative and Referendum on a state-wide scale, while there are 44 states in which the local referendum is found. Everywhere in America this institution is found in operation.

These states contain population of 30,000,000. They stretch from coast to coast. They cover states like Maine and Massachusetts, and California and Oregon, Michigan and Ohio, Missouri and Arkansas.

Does any one seriously argue that representative government has been abolished in the neighborhood state of Missouri to the south, or Michigan to the northeast, or Ohio a little farther east; or that because the people of Illinois and of Minnesota have voted overwhelmingly in favor or it that they are intending to give up legislative bodies altogether?

I do not question the sincerity of those who say that they fear the I. & R. because it is in violation of American principles, but I ask them in all fairness to look at the credentials of the men who advocate this institution, and who are its public sponsors. Do you seriously question the Americanism and the practical judgment of Theodore Roosevelt? of Governor Cox? of Governor Johnson? of William Jennings Bryan? If they were here today, who would rise to question the Americanism of any of these men or their fundamental belief in the institutions of republican government? Republicans have acclaimed Roosevelt and Democrats have honored Bryan and Cox with the Democratic nomination for president. You may disagree with these men—that is the privilege of every free man—but you cannot question their sincerity and their Americanism. And for my part I resent the charges that are made in the name of Americanism against this measure. We are as good Americans who present this measure as those who may oppose it. We are as much interested in our common country as you are. We are as much responsible for its growth and welfare as you are. We are as proud of its past and as hopeful of its future as you are. We share with you the responsibility for the preservation and

perfection of its institutions; and we will not shirk our share of the burden. We will go with you to the end of the road to protect and preserve genuine Americanism. But we believe, as great leaders who stood four square on Americanism have believed, in the principle that institutions must be modified to meet changing conditions; and that the legislative history of Illinois shows where changes are needed. We know that every American generation must do its share in adjusting the machinery of government to new conditions; if the government of Illinois was perfect, why was this convention called?

And, gentlemen, it is not American, never has been and never will be, to disregard the will of the people as solemnly expressed on three occasions, and to disregard the instructions given to a Constitutional Convention on the very day of its election. A fundamental American principle is the rule of the majority. If the will of the minority is substituted, and the majority is cast aside, Americanism is wounded in its vital spot—the rule of the majority. By whatever name it may be called, the rule of the minority is un-American and undemocratic, and in the long run dangerous to government, to property, to society.

As Americans, listen to the voice of the people of Illinois, three times expressed on this proposal, and submit it to them for their adoption or rejection.

Some have said that the I. and R. would in some manner prove dangerous to the development of the State, that it might interfere with our prosperity or our happiness. But why deal in theories or why speculate when the truth is at hand? That is not the practical way to deal with practical situations. Americans pride themselves on looking at the facts as they are, rather than theorizing about them. Does any gentleman seriously believe that the neighboring States of Michigan and Missouri have suffered industrially under the I. and R.; that the farmer, the business man, the wage worker, have been damaged? Does any one discover that Ohio has been set back because they adopted the I. and R. in 1912, or that Massachusetts is losing ground on account of it; or that the development of the Pacific coast suffers because of the I. and R.? Why not face the facts, gentlemen, rather than deal in theories of government? Why not apply the same principles to public business as to private business, and look at things as they actually are? Americans are the last people on earth to be deceived by general statements and theoretical objections.

In the light of the facts, no one can honestly say that either industrial prosperity or representative institutions have been injured in any of the States adopting the Initiative and Referendum, or in any of the cities where it is in operation. Would any gentleman arise in the City of Detroit and declare that the I. and R. would ruin the State? What would they say to him? Would any gentleman arise in Cleveland and declare that business was being ruined and American institutions destroyed because of the I. and R.? On the contrary, Ohio seems to be the breeding ground for presidential candidates still. Would any man go to Los Angeles and say that under the I. and R. progress and prosperity were out of the question? Your common sense tells you that these situations are impossible and absurd, because these are great centers of industrial prosperity, and the Flag still waves in all of them. If the I. and R. should be adopted in Illinois, I predict that ten years hence, no one would question their desirability, and that all of the fears and doubts regarding them would be forgotten, and the speeches here made would read like the literature attacking universal suffrage or democracy in the early days.

The test of everything is whether it will work in practice. The I. and R. where tried has worked well. Cities and states that adopt it continue it, and others are constantly taking it up. Cities and states do not repeal it; they hold to it. They retain it, because it is adapted to their conditions and because it fills certain needs. The system has been in operation nearly a quarter of a century in the States, and for twice that length of time and more in the local governments. During that period it has been thoroughly

tested out in practical experience; and nowhere is there any indication of a desire to abandon it. Amendments and modifications have been made, but there is no case of a repeal of the system when once adopted. This convention would not seriously consider the change of the requirement that there shall be a referendum of proposed amendments to the Constitution, even after they have been considered by this expert body; yet there was a time in the history of this country when such votes were held to be dangerous. This convention would not seriously consider the repeal of the requirement that there shall be a referendum vote on State bond issues, because the system has worked well. In spite of the greater knowledge of the legislature regarding the details of financial measures, there is a general desire that state bond issues shall be passed upon by the entire electorate. If theoretical arguments were to be applied, it might be said, how can the people pass upon such questions? Why not leave them to the legislature, which has much more detailed knowledge of such affairs? But practically, the referendum on these questions is retained, and no one even proposed to abolish it. Why? Because this is a practical situation and practical men recognize the value of a popular check on the acts of the law-making body. The same thing is true of the local votes on bond issues and franchises. No one proposes to make them constitutionally impossible, although in theory, if they were consistent, some would suggest this. Is not the council or the commission better qualified to pass on the complicated details of a utility franchise? Can these matters be intelligently studied and passed upon by the voters of the cities? The political answer is that the councils were often intelligent enough, but not representative in their actions, and that therefore the plan of a popular vote was devised and put in operation. No one has suggested that such laws should be made constitutionally impossible. Why? Because practical experience has shown their working value. The tax payers and the ultimate consumer want a final vote on these fundamental questions. And instead of taking away such power from cities on the ground that they are dangerous or un-American, you are proposing to extend and increase their powers. In these cases you look at the facts and not at some theory. If any one should rise here to tell in fervid oratory how he feared the downfall of the republic in case the referendum of hard roads or waterways were not made impossible, he would be treated courteously no doubt, but no one would take him seriously. Why not if in theory these devices are dangerous and un-American? Because you are in touch with the facts and know the argument has no application. In the same way the people of Michigan or Ohio or Massachusetts or California, would listen to your argument against the State-wide I. and R. They would look at the facts as they have seen them, and courteously conceal their yawns. They would think, if these men knew what actually happens under the I. and R., they would save their oratory for more appropriate occasions. And if you went on to denounce them as un-American because they had these institutions, you would probably have a row on your hands, for there are good American fighters in all of these States.

No, gentlemen, the I. and R. have been thoroughly tested and tried under widely varied conditions, north, south, east and west, in rural communities and in urban centers. And nowhere is there any tendency to go back. I appeal from theory and oratory to the practical test of the facts, from which no one can escape. We are not advocating an untried innovation, but a system thoroughly tried out by practical men.

To say that the people are not experts, or that they are not intelligent enough, or that they are too busy, does not meet the facts in the case. Experience shows that people pass with great intelligence upon the propositions submitted to them, and that their mistakes are few. In any event they are the people's own errors. It is not necessary to go outside the State of Illinois to find examples of the way the voters pass on public questions.

In local affairs this is so well understood that no one questions it any more. And in the States, the same situation is developing.

There are many people who fool themselves by thinking of legislative bodies as wholly intelligent and wholly representative. I have no wish to attack legislators as a whole, for there are some very able and honest men among them for whom I have the very highest respect, but no one understands better than these very men that there are in legislative bodies many men who have intelligence, and there are many who are honest, but far from expert. And there are men who are both honest and intelligent, but whose views are so warped by their surroundings and connections that they do not see the public interest clearly. They are experts, experts in the process of legislation, but they use their expertness against the public interest. They know far more about the technicalities of law making and the details of drafting and the various arguments made before committees for and against measures, but the average man or woman surpasses them by an infinite distance in the simple matter of honesty. God gave these experts knowledge, but he did not give them wisdom—the wisdom of common folks who know right from wrong, who could not draft a bill or devise a cunning argument, but who recognize the public interest when they see it: There are in the legislative halls men who are both intelligent and personally honest, but whose financial interests and ties are so strong that they always interpret legislation in their own interest or that of those around them. They honestly oppose progressive legislation for the benefit of the mass as they see it, and proud of their own integrity and their own intelligence they misrepresent the community at times. But these men are seldom the majority in any legislative body. They are likely to be a smoke screen for the destroyers.

The trouble with many of the opponents of the I. and R. is that they compare the I. and R. with a legislative body that does not exist—a theoretical and unreal legislature—a mythical body that could not be found or rarely found. They think of a legislature as made of intelligent, solemn, God-fearing representatives, seeking to carry out the will of the people in a business-like fashion, proceeding in the manner outlined by a bureau of public efficiency. And over against these Puritan gentlemen of unassailable virtue and intelligence they set the people, pictured as a mob, a rabble, an ignorant mass of uninformed and uninterested persons, incapable of comparison with the legislative experts. They theorize about one and they theorize about the other, but the legislative experts are idealized and the people are touched up by the cartoonist.

But why deceive ourselves? Americans are intensely practical people and not used to dreaming when they can see and act. Any man knows that lawmakers are not experts as a whole; that they are often influenced by partisan and corporate considerations. They are on the whole not so far above the average intelligence, and often away below it in ability to see what the public interest really is. They do not uniformly proceed in a business-like way, but often quite the contrary. The public judgment is usually wise and conservative, intelligent and just. Its verdicts are not infallible, but they are usually just. The informed public judgment is the rock bottom of our democratic government, and if that fails all fails.

If gentlemen would look at things as they are instead of spinning theories, they would see that the faults of the legislature are many, and the I. and R. is designed to remedy these faults by the use of a popular veto and a popular spur on their action. If they would look at the facts they would see that where the system is tried, it has this effect, that it provides a remedy against unrepresentative representatives. We maintain that the judgments of the mass are substantially wise and sound. No man can escape the challenge of the facts by falling back on abstract theories which have no relation to what is actually going on. No man can show in view of the long history of the I. and R. in the United States and in our own State of Illinois that these institutions have not operated beneficially and to the satisfaction of those among whom they were working.

The voters of Illinois have instructed this convention to submit a plan for the Initiative and Referendum. They have done so by a large majority, and this is not the first time they have made this request of those who have the power to grant it. Your committee to whom this important matter was referred has given it careful consideration, and has submitted to you a carefully drawn and carefully drafted plan. We believe this to be the soundest plan in form and substance yet submitted to any Constitutional Convention. We urge you to submit it to the voters of this State, as a separate proposition, so that the electors of Illinois can adopt it or reject it as they see fit. They have expressed a decided opinion upon this question, and in my opinion are entitled to a vote upon it. Even those who do not favor the I. and R. personally ought not to take the position that they will not permit the people of Illinois to pass upon this important question. It is one of the purposes of such bodies as this to discuss fundamental questions and to permit the people of the State to discuss and decide them. Certainly no one can contend that the I. and R. is not a subject of general interest, and one upon which the voters of our State must finally pass. Is it not better for this convention to make provision for a popular vote than to refuse a referendum on a matter which in the long run must be decided some day by the voters of the people of the State, rather than by the vote of any convention or of the legislatures? If gentlemen wish to oppose the adoption of the I. and R. on a popular vote, that is their privilege, but that should not prevent any opportunity for the people themselves to vote on the question. Why not allow this measure to go to the people and be voted up or down by those who are primarily concerned with it—namely, the people themselves? In view of the special circumstances in this case, different from that in any other before this body, I ask the members of this convention to think long and seriously before they take the position that they will not permit a popular vote on this amendment. In my judgment, it would be the part of wisdom and discretion to provide for the separate submission of this particular provision to the electors of Illinois, with the understanding, if need be, that some of those voting to submit it are opposed to the measure and will so state when it comes to the referendum. If the people of Illinois want this measure, surely this convention does not desire to stand in their way by arbitrarily refusing to submit it. While if they do not want it, they will be given an opportunity to vote it down, and full justice will have been done to all. Some day so fundamental a question is sure of being voted upon in view of the general interest and demand. Why not allow it to be submitted by this body in the regular order as a separate amendment? The final responsibility for the adoption or rejection of the I. and R. should rest with the voters of the State, and not with the legislature or Constitutional Convention. Why should this convention be placed in the position of determining what clearly belongs to the people of the State to decide what they think best? Why should we carry on prolonged discussion on what we think the people think? Why not let them say what they think and want? For we know that in this special case there is ample warrant for the conclusion that a great body of our people wish to vote upon this question. They have said so plainly, and it is our duty to carry out their judgment upon this matter.

We do not claim that this amendment will cure all the ills of Illinois. But we believe that it will prove a help in the solution of the problems of this State in years that are coming. We believe that it will give an opportunity for the determination of questions from time to time by popular vote, when the legislature will not act, or acts in a manner unrepresentative of the commonwealth. We believe it is one of those adjustments of machinery which have been going on from the beginning in the history of American government as conditions have changed with time. We know from experience that it will not destroy representative government, but will go a long way to strengthen and restore it. When and where government is really representative, the I. & R. will not be widely used, but it will at all times be found to be a useful weapon to have in reserve in case of need.

Lawmakers will be more careful if their acts may be passed upon and repealed or if laws they refuse to enact may be passed over their heads.

I represent the territory known as the Stock Yards District, but I know what common folks are thinking and feeling and saying, perhaps better than some of you. I know that many of them feel that in some way—often they know not just how—they are not getting a square deal in life, a fair chance and a fair share. They feel they have not been treated right by the legislature from time to time; they begin to distrust the machinery of government all along the line; they feel that somehow in some way politicians are keeping the sunshine out of their lives, and some of them are turning away from political action to direct action hoping to get justice that way—to the strike, the general strike, and to general disregard of political action and methods. These people have voted for the I. & R., not once but many times. They have seen the legislature turn them down, not once but twice. If this convention follows the same path, made up as it is not merely of politicians but of representatives in an unusual way of the wealth and intelligence of the State, they will have one more evidence of the uselessness of trying to get anything through the political channel, and their faith in such methods will be that much less. What shall and what will the common folks say if men of wealth, refinement, culture and attainment will not obey the instructions given by the people, and will not permit a vote on the people's way of checking the legislature? How shall I explain it to them? How will you explain it to them? What shall we say to those who tell them that the machinery of government is always made and controlled by capitalists for their own pleasure, and that laws and votes are only made for the wealthy and the well born? Most of you in Chicago and elsewhere as I understand it are advocates of what you call good government. Well, what can we say when they charge that the advocates of good government are not for people's government?

You men of wealth and culture have the votes and the power; but you have also the responsibility, and I warn you as a representative of those who have little money and many votes, that you are doing untold harm if you keep the people of this State from a chance to pass on a great popular measure demanded over and over and over again by thousands of its electors. When you come to teach Americanism to the Yards, they may remind you that the greatest of all American principles is that of majority rule—its finest spirit that of striving to interpret the will and judgment of the commonwealth.

I have only the friendliest feeling for the members of this body with whom I have worked for many months. I have hoped and still hope that this Constitution may be made a milestone in the progress of Illinois. I have labored as best I could to make it so. Why not complete our work by submitting this people's measure, specially requested by them in extraordinary fashion, to the people for popular determination and discussion and decision? Why not give to the people of Illinois a new proof of the value of deliberation upon the fundamentals of government and a new confidence in our political leaders? Why not submit the I. & R. to the people as a separate measure to be voted up or down as the people of this State in their wisdom shall say? (Applause.)

Mr. CORCORAN (Cook). There was a motion made, but the motion was not put.

CHAIRMAN DOVE. The motion is to substitute the report of the minority for the first section of the majority.

Mr. CORCORAN (Cook). Much has been said here about the will of the people. As I look at the majority report, however, I believe it has gotten away from the will of the people. I do not find any provision here for 100,000 electors at large, or 50,000, or for a separate submission. I made a pledge that if a majority of the people in my district would vote in favor of the public policy questions, I would be with them; and the people so voted. In my report I provide for 100,000 and 50,000 voters, and also for

submitting it as a separate article. I now wish to move to substitute my report for both the other reports.

CHAIRMAN DOVE. The chairman is of the opinion that your motion is out of order; that only one report can be substituted for another.

Mr. CORCORAN (Cook). I appeal from the ruling of the chair.

Mr. GORMAN (Cook). I do not think the motion is out of order. The first substitute is in the nature of an amendment, and another amendment is permitted. You can have two amendments to the original motion.

Mr. HULL (Cook). Supposing the motion made by the chair himself should be adopted, and then that Mr. Corcoran should offer his amendment? Could the point of order then be raised that by previous action the matter was disposed of, so that the subject matter contained in the Corcoran proposal could not be considered?

CHAIRMAN DOVE. Yes, that that will be disposed of in adopting the minority report.

Mr. HULL (Cook). Then I am going to vote against your substituted report at this time. If Mr. Corcoran and others want their report to get before the convention, I am going to vote to get them there, whatever may be my ultimate conclusion.

Mr. PINCUS (Cook). I believe every phase of this question should be thoroughly discussed, although I did not subscribe to the I. & R., nor did I in any way promise to abide by the vote of the people in my district. But I believe that I, as a member of this assembly, have a right to vote upon this proposition as I see fit, with all the light possible; and I understand that if the minority report is passed, I will not have the chance to vote either for or against the original proposition.

Mr. HAMILL (Cook). I think there is some doubt about the parliamentary question of whether Mr. Corcoran's motion is in order or not. I am disposed to think it is. But if there is any question about it, I would suggest that in the interest of a full and free discussion, and so that there may be no question about the willingness of this body to give perfectly open consideration to any question before it, that the chairman withdraw his motion at this time and permit Mr. Corcoran's motion to be made.

Mr. CORCORAN (Cook). It looks to me as if somebody was trying to shut off my minority report. They can go ahead and do it, but when the chairman of this committee reports back on this, I will move to substitute my minority report.

Mr. MILLER (Cook). It seems to me that Delegate Hull's question and the chairman's answer demonstrated that Delegate Corcoran's motion ought to be declared in order because otherwise the debate upon his proposal will be entirely cut off.

CHAIRMAN DOVE. There is no disposition upon the part of any one to strangle any report or prohibit a full discussion, and I will gladly accept the suggestion, and withdraw the motion, and entertain the motion of Mr. Corcoran.

Mr. CORCORAN (Cook). I have made it three times, but I will make it again. I do not care whether you choke it off or not.

CHAIRMAN DOVE. The motion is already made, and the pending motion is to substitute the report of the minority presented by Mr. Corcoran, for the majority report.

Mr. MICHAELSON (Cook). It seems to me that Mr. Corcoran might be accused of the same thing of which he is accusing others. Only one section of the majority report has yet been read. A motion has been made to substitute an entirely new report for that section. I think we should have a full and free discussion of every paragraph. This question has been made the football of this convention, and questionable practices are again brought to bear to put it upon the shelf. Let us slam the desks if there cannot be a full and free discussion. This is an important question, upon which the people have expressed themselves, and they are entitled to some consideration. This convention thinks so little of it that it wants to substitute not only one report, but another, for the very first paragraph. I cannot see

the fairness of that kind of proposition, but it has been the practice throughout the entire convention to act just that way when a question concerning the rights and privileges of the common people is at stake. That is the criticism that I have to offer. Let us put the cards on the table now, and find out whether we are to write a Constitution for the people, or somebody else. That must be settled before we can go any further, and I object to this procedure. Let us take this up paragraph by paragraph, and let motions be made in the regular order to adopt section by section, and let us find out where we stand upon this question of such vital interest to the people.

CHAIRMAN DOVE. The motion, if agreeable to Mr. Corcoran, should probably be to substitute section 1 of his report, number 368, for section 1 of the majority report.

Mr. CORCORAN (Cook). No, they will not run together. That could not be done. Mr. Michaelson suggests that we go through 367, and at the end make a motion to adopt; and then after that make a motion to substitute another report.

Mr. HAMILL (Cook). You cannot do it then.

Mr. CORCORAN (Cook). I will withdraw my motion.

CHAIRMAN DOVE. Then the question is upon the adoption of section 1 of the minority report.

Mr. LINDLY (Bond). I suggest the proposition before the house is to move to adopt the majority report, and then take it up section by section. When that motion is made, any person with a minority report has the right to make a motion to substitute it. The motion should be first to adopt the majority report.

CHAIRMAN DOVE. The only motion now before the committee is to adopt section 1 of the majority report.

Mr. LINDLY (Bond). I move to adopt the report of the majority of the committee.

CHAIRMAN DOVE. Your motion is out of order, because our rules provide that only a section at a time can be considered by the committee.

Mr. LINDLY (Bond). But you first must get the matter before the house, and there must be such a motion before you consider it section by section.

Mr. FIFER (McLean). I believe the record will show that there was a motion to adopt the majority report. Then the chairman of the committee moved to substitute the minority report. The delegate from Mercer objected and read the rules and raised a point of order which was sustained by the chair. Then the first section of the majority report was read, and then the chairman offered his minority report for that section. Then the gentleman from Cook moved to substitute his minority report for the majority, and the minority which had already been presented, but afterwards withdrew it. It seems to me immaterial how this question is presented, as long as there is a full and free discussion. It does seem to me that we may properly proceed on the record as it now stands, without any suggestion of gag rule.

CHAIRMAN DOVE. A motion has been made to adopt section 1 of the majority report, and that is the only motion pending.

Mr. HULL (Cook). If the motion be that the minority report be submitted for the consideration of the convention, it will displace the majority report, and will then permit the convention to take up whichever report they want to, section by section, and avoid the necessity of possibly going through two reports.

Mr. HAMILL (Cook). The committee has fallen into a misconception of what a motion to substitute is. Such a motion if carried does not adopt the substitute report. It merely places the substitute report before the committee for consideration.

CHAIRMAN DOVE. The motion is to adopt section 1 of the majority report.

Mr. MIGHELL (Kane). I desire to offer the following amendment for section 1:

AMENDMENT No. 1.

Amend Section 1 of Proposal No. 367 in line 21 after the word "proposition" by striking out the words "and by," and inserting in lieu thereof the following: "of which approving majority vote not more than one-third shall come from territory now included in a single county and shall also consist of."

Mr. MICHAELSON (Cook). I move that the amendment lie upon the table.

CHAIRMAN DOVE. The chair is of the opinion that your motion is out of order in Committee of the Whole.

Mr. TRAUTMANN (St. Clair). This amendment might be all right in another place. If it were offered where provision is made that you shall have 100,000 signers to your petition, or six or seven per cent, it might be all right to say that not more than one-third should sign from any one county. If we are going to have Initiative and Referendum as proposed in this report, it seems to me that if a majority of the people vote for that legislation, it should carry, and we should not say that only one-third of them can come from the County of Cook. If you are going to have the people pass upon your legislation, you must permit the people of Illinois to pass on it, and not the people in 101 counties. I might not have any objection if you provided that the signers should be limited; but when you submit a proposition to the vote of the people, I submit you must abide by the majority on election day, no matter where it comes from.

CHAIRMAN DOVE. The question is upon the amendment of the gentleman from Kane.

(Amendment lost.)

Mr. SCANLAN (LaSalle). I desire to offer the following amendment:

AMENDMENT No. 2.

Amend Section 1 of Proposal No. 367 by inserting after the word "without" in line 13 the word "material."

(Amendment lost.)

CHAIRMAN DOVE. The question recurs upon the motion to adopt section 1 of the majority report.

Mr. JACK (Jasper). Mr. Chairman, as a member of the Committee on Initiative and Referendum and as a member of the sub-committee that drafted the majority report, I assisted in drafting the report and voted to report it to the convention as a basis for its action. Every member of the sub-committee knew and understood my position on this subject and the purpose that prompted me to take this action.

I did not solicit a position on this committee and did not solicit a position on the sub-committee; in fact, it was with some reluctance that I accepted or consented to act as a member of the sub-committee. I sought election and was elected a delegate to the Convention and I concede it to be my duty to act honestly and conscientiously in whatever nook or corner to which the controlling powers assign me. I might place one estimate on my capability and best place for service and the powers that be might conceive that I would render more efficient service in an entirely different corner of the work of this convention.

Leaders of thought on the question of Initiative and Referendum were invited from every section of this State and Nation to appear before this body and speak to us on this question. After listening for days and hearing all the greatest minds of the State and Nation had to say on the subject, a sub-committee was appointed to draft a proposal to submit to this convention. There was a duty imposed on this sub-committee, and as a member I felt in honor bound to perform this duty conscientiously, and to assist in

getting submitted to the convention a proposal which I conceived to be in line with the best thought on this subject.

During recent years this plan of legislation has been much talked of and discussed in every State of this great Nation. In the past few years, at least, it has been a live issue and some have clamored long and loud for its adoption as a plan of securing better laws, while others with equal earnestness have opposed it.

As one member of the committee of fifteen I did not believe that the committee should take upon itself the responsibility of strangling and putting to sleep in the archives of this convention this unborn child. So if this child is to be strangled and put to sleep, out of respect to public thought and sentiment let it be done by the convention as a whole, then each and every delegate has opportunity to act for and respond to the public sentiment of his district. I am willing and ready to assume this responsibility for myself and go on record that my constituents may know my vote on this question of public policy.

Individually, I do not believe that it is a safe and sound policy of legislation. The average voter has neither the time nor the opportunity to closely scrutinize laws he may be asked by his vote to pass or to reject. Like patent medicines and political issues, they may not be true to label and in operation produce an opposite effect to the one advertised.

The General Assembly is paid for the job, has time and opportunity if it will, to carefully scrutinize each proposed new law and I believe that as a general rule it is responsive to any general and widespread demand for legislative action and to local public opinion. It is a long tried and well established method of lawmaking, it has worked well and efficiently in the past and will, I believe, fully meet all just demands for new legislation in the future.

I do not believe and have no sympathy with the thought that if we put this proposal in the new Constitution that it will overturn our guaranteed republican form of government and promote extravagant, wild-eyed laws and bring disaster to the State. It may bring forth some bad laws, some purely sectional or class legislation. The General Assembly has not in the past always been exempt from the same defect. But new elections are held every two years and the people are given an opportunity to speak. The people speak emphatically and decisively when aroused to the necessity. We have recent example as to this disposition on the part of the people.

The forty-sixth district, from which I was elected, and in the election at which I was elected as a delegate to this convention, spoke on the public policy of the Initiative and Referendum. It was defeated by a comparatively large majority. They entrusted one vote to me in this convention. I conscientiously, willingly and gladly abide by the result of that vote.

Mr. MOORE (Macon). I am speaking against the Initiative and Referendum because I do not believe it is the proper thing in this State or anywhere else. I expect to hear a lot of eloquence about letting the people rule, and making their own mistakes, and being given an opportunity to rectify them. But who are the people? All of the people of Illinois constitute the people, and not alone the voters, and it is very important, when you have no other means of deciding but by the expression of the voters, that you get the fullest possible expression. My people, after having helped to establish the republic of the United States, moved into the territory of Illinois and they have been living here ever since. They were not rich. They were tillers of the soil, and they earned their bread by the sweat of their bodies; and I have been grounded in a strong belief in the rule of the people from the day I was born, and I do not believe there is any man in the United States who is more loyal to the will of the people than I. But this I. and R. proposal is not a matter of the will of the people. It is a proposal to place in the hands of an active, highly organized, deeply interested minority the rule of the State of Illinois. It proposes that less than

one in sixteen of the voters shall by petition submit an unamendable law to the electors, and then that only three-tenths of the voters shall be sufficient to fasten that upon the remainder of the voters. This is not in accordance with American majority rule.

It is a flat contradiction of American principles. It plainly means the rule of the minority, under the demagogical and hypocritical guise of letting the people rule. It seeks to deceive the people by pleasant sounding terms. It is a fraud upon the people. We have no statistics in Illinois on initiated measures, and the figures on state-wide referenda are not available, but we have the records of 82 referenda in Chicago. The vote in these cases has amounted to a majority in only eleven instances, or 13.4 per cent. Senator Lodge of Massachusetts, in a speech against the public opinion bill in that State, shows the danger of submitting technical matters to popular vote, citing 19 cases in Maine and Massachusetts. He says, "Now, let us examine this table, as we did that of Massachusetts. In only two cases out of nine did more than half of the voters who went to the polls vote upon the question submitted, and in each of those cases one-third of those who went to the polls failed to vote on the submitted question—quite enough in each case to reverse the result. In five of the remaining seven, less than one-fifth of the voters who went to the polls, and in two only one-quarter, voted on the submitted question." I spent the winter of 1918 in Boston, and noting that of 19 amendments to the Massachusetts Constitution adopted on November 5, 1918, not one had a majority of the voters in its favor, I sought the law in the matter, and found that only a third of the voters are necessary to change their Constitution. The minority rules there in great degree. They have surrendered their birthright, indeed.

Let us not follow the example of Massachusetts in this State. Within the last three years in the City of Decatur I have had occasion to note the value of the referendum. On the establishment of the sanitary district, out of 15,000 voters we were able to drag to the polls about 1500. When it came to the question of raising the salaries of school teachers, we were able to pull out a little more than 1300. Last fall, during the campaign for the Constitutional Convention, it became necessary to hold another election in the school district, and the proposition was carried by a vote of 197 to 19. In two other cases we had a majority of about 10 to 1 in favor of the proposition.

This is simply a disgraceful exhibition of the character of the referendum. I ask you, does this spell rule by the people? I oppose the Initiative and Referendum because it opens the way to vicious legislation for the repeal of useful laws by a small and interested minority. I am opposed to the I. and R. because I am for rule by the people. A campaign secretly conducted results in laying burdens upon the people by surprise. In one of the school campaigns in 1919 I offered my services to the president of the board of education. He said, "We want a campaign, but we want it quietly conducted, because if we give it too much publicity we may lose the election. The same tactics that were used to carry out the beneficent act of increasing the salaries of school teachers, and thus helping out the people in the way of education, will, of course, be carried out, but with a directly opposite motive, whenever there is a vicious thing to be done. By fixing the percentage of 30, it was figured that the chances for the majority to rule were about 82 in 100, or a little better than 8 out of 10. It sounded well, and it seemed that no one could point out the danger. They would hardly dare ask for a lower percentage, because otherwise it would be too open a proposition. They realized, however, that majority rule would not do, because it was clear they stood but little better than one chance out of eight of getting over class legislation or interested legislation, that this scheme is calculated to promote.

Out of 82 referenda in Chicago, there were 11 times when a majority was obtained for the proposition submitted, or 13.4 per cent. In 67 cases, which included the 11 first counted, 30 per cent or more of the total vote

of the election was cast for the proposition submitted, making 81.7 per cent on all questions submitted.

Now, Mr. Chairman, I cannot see that there is any excuse for the Initiative and Referendum being put on the basis of letting the people rule. It is not a scheme to let the people rule, it is a scheme to let the small majority rule, it is conceived in sin and brought forth in iniquity and I hope this convention will have none of it.

Mr. WOLFF (Cook). I don't think the gentleman who has just had the floor, made the statements seriously, on the vote cast, that he did. Outside of Cook county the majority votes cast for this proposition was about one hundred votes to the county in favor of it. According to his logic we should not take our seats or oaths here, if we followed out the logic of the gentleman, who just preceded me.

Mr. FIFER (McLean). The people of my district at the election a little over a year ago voted overwhelmingly against the proposition that was submitted at that election for their rejection or approval. Of course I feel bound to carry out the instructions given to me at that time, but I will say that that expression of the people in that vote accords entirely with my own views respecting the subject now under discussion. It does seem to me that the proposed measure of the enactment of a law is not workable, and if adopted might work a great mischief that will be dangerous to the interests of this great State. Now I have heard all of the testimonies that were given by the very able gentlemen who appeared before this committee, Governor Dunne, Captain Merriam, the gentleman from Cincinnati, Rev. Dr. Bigelow, and others, and I took the pains after it was in print, most of the testimony of these gentlemen, to read it, and the more I heard and the more I read, the more I was convinced that their position was not tenable, that it was not the proper way to enact laws for a free people. I know it was said by some of those gentlemen, at least, that legislative bodies are corrupt. Now, gentlemen, let us take that up and examine it. So far as my experience goes with legislative bodies, especially with Illinois, which is considerable, they are a body of picked men, and I am going to say without disparity to the masses of the people, that they are far more intelligent than the mass of the people, and there is scarcely a member who sits on this floor, that will not agree with me when I say that when a man presents himself for the legislature, you size him up, to see whether or not he has the necessary qualifications of a candidate, and just like Saul of Tarsus, he stands above his fellows. Sometimes a fellow offers himself for the General Assembly, when instinctively everybody says he is not fit for the office, and he better stay at home, so I think we can all agree that a legislative body is a body of picked citizens, not ranking possibly far above their brethren, who stay at home, and send them here, but they are considered a little above the average, and I think too not only in intelligence but in virtue and honesty. Now the complaint was made by these gentlemen that money was used in the legislative bodies. That was true, and there will be corruption in all government so long as human nature remains in its present imperfect condition. If you think you can run the government of the great State as a Sunday school is run, get that notion out of your head. It may be hundreds, aye, thousands of years before we reach that high standard. Now they say that money was used in the legislature, look up here in our sister states, where a United States Senator went before the people, not before a legislative body, but before the masses of the people, and he corrupted that people to such an extent with money that he was sent to the penitentiary or has been sentenced to the penitentiary. Only a few years ago down in the State of Ohio, the people—not members of the General Assembly—but the people were brought up before the court of that state and pleaded guilty, and it appeared that they had been bought up for the election, for two dollars a head, thousands of them, and the great cry all over this country is that it is not so much the legislative bodies are corrupted by money but it is the mass of the people, millions and millions of dollars are expended in every election, and I am bound to say that I am true to my

own convictions when I say that much of it is used for improper purposes and for corrupting the legislators. And it is not confined to one party alone. Now so far as honesty is concerned and corruption, when you leave the legislative body and go to the people it is like jumping out of the frying pan into the fire. Now, if the people never made any mistakes, if they could not be corrupted, if they were not influenced by any argument, it would be undoubtedly sound, so far as honesty is concerned to submit this question to the great mass of people, but it is not so, and there is a still further element involved here, and that is the method of making laws. It does seem to me that it is utterly impossible for the people of this State or any great state to pass intelligently upon an intricate law. I know there are some questions which can be submitted to the people and they can pass on them intelligently, the wet and dry question, which is a yes and no question entirely, also the question of woman suffrage is a yea or no question, and the masses can vote on it intelligently. Now I have business interests in the State of South Dakota and I go out there frequently, and I have seen their ballots, written all over in fine print, with the most intricate laws that are proposed to be enacted by the great mass of the voters, laws that if they become laws, no man who is not a lawyer—property rights were involved—would act on those laws without going to a law office and taking a lawyer's advice; yet they are asked to pass on the validity of such a law, its workings, and all that. Now go on the streets of this great city tomorrow morning and see the groups of men there, all these people in these shops, in these mines, just as intelligent as you will find people anywhere, and get them to understand a law made that would cover page after page of the written documents. It is impossible, and it is a silly farce when you undertake to mix up laws with people of that kind. Say they are intelligent, I agree with you, the most intelligent people in the world, and I believe the most virtuous—I don't mean that in any odd sense but so far as honesty and integrity is concerned, that is the sense in which I used the word virtue. Now you can take it right here in this body, a body of one hundred and two men, and eliminating myself from the consideration, I say a more intelligent body of men never assembled in this great State than this body, and yet do we undertake to pass upon these questions in a mass? We know that we cannot intelligently do so, so we appoint committees, and questions and propositions that are heard here are referred to those committees, and then when you come to get close to a question, the committee itself is too large and it is sent up to a sub-committee. Now those great questions, we then fight out in committees which we have heard testimony about, and we are here for the greater part of a year considering those questions which you are going to submit to a people who have something else to do besides looking into the laws, or what should be repealed and what law should be passed. Now this proposition amends the Constitution, or the Constitution can be amended by the proposition, and the initial step is the petition. Now of all the foolish things it seems to me that was ever proposed, and we have it in nominating candidates for office, the most foolish thing is to require a petition in that case. Now who in this State of Illinois since the primary election first went into effect, has failed to get the necessary petition? Everybody knows any man who wants to get his name on a ballot as a candidate can do so. What is the use of requiring such a foolish thing as this? You know he can do it, to get his name on the ballot. Now it is proposed here by the proposition here, the majority report, two minority reports and the original report, all provide for a petition to amend the Constitution, the initial step is a petition. I think one proposes only six per cent, another proposes fifty thousand and another one hundred thousand signers. I don't know that I got that right, but it is a petition with a certain percentage of the electors who voted at the last election, that to be lodged with the Secretary of State, and then he is to place it on the ballot. Now I am everlastingly and eternally opposed to that. I believe the representative form of government, which is the American principle, is the best form of government that has yet been devised on this earth.

Now there have been just three kinds of government since the world began, just three kinds of government. The first was government by conquest without incorporation. In the early stages of our human existence, one tribe would affiliate with another tribe that had the same religion and the same language. Language and religion have always been a great barrier to people coming to an understanding, and keep them from coalescing. Now one tribe would affiliate with another, who had the same language and the same religion. That would make it a very large tribe and it was strong enough to go out and conquer all the other tribes, that did not have their language and religion, and instead of incorporating them and making them citizens of that tribe they made slaves of them. That is what is known in history as oriental despotism.

Now the centuries went by and then we found the Romans, which were founded also on conquest, but it differed in this, they were willing and did incorporate the conquered people in their body politic. They would have endured to this time perhaps had they in that day discovered representative principle of government. All of the government they had was a town meeting and anybody could go in and gather at the town meeting, and perform. You could come from the remotest region of the Empire. They were citizens and could vote, but they could not get there any more than we can go to the City of Washington to make laws for the United States, no more than all the people of the State of Illinois can come to Springfield. Now strange as it may seem, plain as it is to us, now, they had not heard anything in that day about the representative form of government, and that government failed and indeed in the very nature of things it had to fail because the few men who participated in the government became so infernally corrupt the Lord wiped it from the face of the earth. It sowed in its own bosom the seeds of corruption and it had to fail.

Now centuries went by again and in the words of Germany they discovered and practiced in a limited way the representative form of government. It never reached its highest development in that country but was transplanted to England, and reached its highest form. As great men have said, for example, John Fisk who has written some of the greatest political books of this century, the greatest event in all human history was it so far as government was concerned, was in the Thirteenth century when the first British Parliament was formed, which was the first truly representative body that ever assembled on this earth, and the English people developed it and our forefathers brought it to these shores, and we have carried it further and have more prosperity under the representative form of government than any other people beneath the stars.

Now I say to you to retain the American Government, this representative government, the kind of government that was handed down to us by the august hands of the great leaders of the Revolutionary period.

Mr. WOLFF (Cook). I believe every delegate here agrees with me that when we get through with our work here as delegates to this convention, it will be necessary to submit this Constitution to the vote of the people for ratification. Do I understand the Governor to say that it will be necessary for these busy people of the State of Illinois to take a month's vacation to study the proposals which we adopt here in this convention, and by some miracle they will receive the proper intelligence, and at the end of thirty days, after they vote on this, it will disappear and they cannot vote on another referendum?

Mr. CARLSTROM (Mercer). Mr. Chairman and gentlemen of the committee, I was one of the members of the committee, and one that signed this report and I want to say a few words in reply to the arguments that have been made to correct the statements made against it. I don't care which way the gentlemen vote on it, either for or against, but let us keep ourselves to the proposal before us, and act on it with reference to the material it contains. Section 1, which is before the house at this time, of the majority report, provides that six per cent of the electors of the State may initiate legislation by petition. It provides whenever legislation

does initiate, it, together with the petition, after having been approved by the Governor and two circuit court judges designated by the Supreme Court, shall be filed with the Secretary of State sixty days—if my memory does not fail me—prior to the convening of the legislature, that the secretary shall present the bill thus brought forth by petition to the legislature and this section requires that the legislature shall refer it to its appropriate committee, in both the senate and the house, and it goes on further to provide in those cases if the bill is brought to a vote in the house or senate and fails to receive the vote of at least 25 per cent of the membership of the house, it dies there. It seems to me if there is any disposition on the part of the convention to consider any initiative and referendum proposal as a separate proposition to be submitted, or otherwise, that certainly this section expresses the safeguard that any reasonable man might ask to have placed around this proposal.

Now, if the legislature fails to act or ignores the bill, it then provides that the Secretary of State shall certify it on the ballot, for a vote at the hands of the electorate. It provides it must carry by a majority of those voting on the question, not less than one-third, or thirty-three and one-third per cent of the vote of the people voting, the total votes cast at the election at which the proposal is submitted. Now I apprehend on that question that there will be a substantial representation in this convention, before we are through, touching the questions of the amendments to our Constitution, asking that a less restricted method be provided, because we have found from experience in the past that amendments to the Constitution could not be adopted because of the requirements that they must receive the affirmative vote of the majority of votes cast in the election. Experience has tested that, but that is one of the reasons for calling this convention, to lessen the rigor of that rule. Therefore, it seems to me there is nothing in the argument that three-tenths of the voters can control as a minority, and neither is there anything in the proposition that minorities have controlled in referendum. I am safe, I believe, in saying there may be exceptions to the rule; there is scarcely a judge in Illinois who was not elected by a very small minority, because the judiciary elections come in June, and at an off-political time, when it is impossible to obtain a full vote at those elections. The most important positions that we have are filled by less than a majority vote. We gentlemen, every one of us, let us not forget, that we are here by favor and the extreme good will of the minority in our section of the country. There is no argument against it. It seems to me we must consider this fairly and squarely. The committee considered and presented to the Committee of the Whole a proposition to safeguard it by every known deed, yet express the desire which the people of this State said that they wanted to have, the opportunity of expressing through a proposal of this character their desire. Section 4 is not under the consideration of the committee, but it seems to be referred to, and I call your attention to the fact that the fear of the down State members of control by Cook county, that is the argument that has been suggested to us, what is the use of limiting Cook county if they have the initiative and referendum, they will put over what measures they want, that would safeguard it by section 4, which says that one hundred and fifty thousand signatures are required, and not to exceed one-third of that number can be obtained in any one county. But there is no use quibbling about minorities controlling, because we had that question in the filling of important offices in the State.

It is just a question whether we want to grant to the people that have asked the privilege of passing this question, the right to do so or not. An argument of that character it seems to me doesn't have a serious foundation as a justification for one's action. The distinguished chairman of this committee, when he started his remarks in favor of minority reports, which were offered, started out by saying, as I recall it, that he felt in honor bound to vote according to the expression of his district, who voted against the proposition, and then in the very next breath quoted Edmund Burke as

an authority and justification for superimposing our judgment over the expressed will and desire of the people in our district. Now the two arguments won't hitch. I don't know if there is any such serious danger or harm in this proposition; I really believe, standing here as one of the delegates in this Constitutional Convention, that we ought to submit this proposition as a separate proposal, if you please, if it is so desired. I believe there has been a sufficient demand for it so that in fairness we ought to do that much. I question whether or not it is not going to be a serious mistake if we do not go that far. I believe it is hedged about with such protection and such protective measures that it cannot possibly bring any harm to the State, and it affords a means through and by which the people can express a desire, and when it is laid before the legislature it may believe it is utterly unworthy of notice or consideration and all that they have to do is to bring it up in either house and have less than 25 per cent of the members vote for it and the proposition is dead.

It seems to me we are working ourselves into a frenzy on a proposition which is wholly immaterial. We should consider squarely the proposition before us and not go outside to refer to other things, nor is it necessary to recall the sacrifice of Savanarola or the wonderful address of Martin Luther on the Diet of Worms, or any of those facts, or the meeting of the German Wittagenamote in the consideration of early experiences.

The question presents itself to us now, are we for or against the proposition, safeguarded as it is? I believe in meeting the issue as it is before us.

Mr. MOORE (Macon). I did not refer to the fact that these candidates were elected by a very small vote. The fact is that the officers of the State and the members of the Constitutional Convention are mere cogs in the machinery of the State of Illinois, and the machinery of the State of Illinois has to be supplied and it does not make any difference what the size of the vote is that is cast for those offices. Somebody must fill the job, and the Constitution of the State of Illinois declares that the man who gets the greatest number of votes fills the job, and it has never been anywhere required in the State of Illinois that he should have a majority vote, and the reason for that is simply because we may have a dozen different candidates, and dividing those votes among the candidates it is necessary that some of us must have a little smaller vote than the majority of the voters, and comparing that case with the case of upon the laws which are to be voted on by the people is not at all fair.

(Motion lost.)

CHAIRMAN DOVE. The question is on the adoption of section 2.

Mr. McEWEN (Cook). I came from a district where there has been on every occasion, where there was an opportunity for a vote, a sentiment declared emphatically in favor of the principle of initiative and referendum. While I personally, prior to the election at which I was elected a delegate to this convention, declined to be bound by any pledge, I yet feel that the people of that district are genuinely, sincerely in favor of some sort of initiative and referendum.

That district, if it had its proper representation in this convention, would have approximately eight delegates, but because the legislatures have declined to follow the instructions of the Constitution, those people of that district are denied that fairness, what the Constitution and the law say they should have. Representative government in that particular is somewhat defective. They voted and said in the only way that they could say, give us some sort of initiative and referendum. I don't think that they, or the voters of the district or the people of the district, or the people of the State, who voted for that proposition, can be dismissed with any airy wave of the hand, and by the characterization of the whole scheme as silly, as has been suggested here this evening. Neither do I think that the Americanism of those voters can be challenged, nor can the use of any epithets or sneers or any assumption of superiority take away from those

people the right to a full consideration here and a serious consideration upon the merits of the proposition.

I think, if I may express my personal opinion, that this is one of the most vital subjects which we will have to consider. Other subjects are important and should receive attention, and this no less than the others. You may say that the people cannot act as a law-making body, and you may make a considerable force of argument against the initiative, but as to the referendum you are bound to conclude that it is a principle embedded in the American system of government. It has been appealed to time and again by men of this convention who deny the right of the people to vote on the subject of initiative and referendum. We have had referendum provisions put in, provision after provision, and in the main by men who are the foremost opponents of the initiative and referendum. The people of this State have said, "Give us an Initiative and Referendum," in the only way that they could express themselves, by a vote. Do you dare give them an Initiative and Referendum or do you dare to allow them to vote upon the subject? This draft of the majority as a draft has as little to be objected to by an opponent of the subject, as could possibly have been drawn, and I take it that the man who votes against it believes that the Initiative and Referendum are wrong in principle. But do you feel that you have the right, sitting here, to shut the door upon the people's request that they expressed to you in the only way that they could express it? Do you feel that you have the right to say that they shall not have it in the Constitution, and shall not have the opportunity to say whether it shall go into the Constitution?

We boast that this is a government of the people, and we know that no government can stand in this country unless it has the support of the people. The days of government by the strong arm of force is passed, and the day of negotiation, conciliation, discussion and fair dealing is here and you cannot say "The public be damned." You cannot say the people are incompetent. You cannot set up one group to ride upon and control the masses. You have got to sit down and talk to them and you have to appeal to them and you have to take their verdict whether it is right or whether it is wrong in the particular instance. In the end it will be right as the great masses of people always are, and on questions of good government, the honest administration of a government, it is idle to appeal to the sayings of the great men of this country regarding the rights of the people and the character of the government as the government of the people, and then to turn and say to them because we sit in the position of power, "You shall not have what you willed by your vote."

This thought about the referendum has not been a matter of instant growth. It has been progressing for years and years. Has it ever been taken back by any state that has applied it? Haven't we more and more extended it even here in Illinois or by the actions of the legislature, until now we recognize it as fixed along certain lines? I am not here to say that any particular legislature has been a corrupt legislature, of this or any other state. We know that wherever men sit, where power is, and where temporal advancement can be accomplished through the exercise of that power there you will find men coming, influencing and persuading, arguing and by every means in their power, endeavoring to get control and to get that advantage which comes from what is invested in those men or in that group. So our city councils, our boards of trustees, our legislature, our congressmen, are forever worked upon by propaganda and persuasion of one sort or another, and sometimes the interests of the public are forgotten or overlooked by these legislative bodies. The people of Chicago have been long suffering, and the people of the State of Illinois have suffered much in common with other states and other municipalities. I believe that we have had as good legislatures in the State of Illinois as any other state in the Union. I believe we have a remarkable representation in this State legislature, and when I say that I don't say that they have been free from criticism, and I don't say that they have always protected

the rights of the public, but those incidents pass along and become a part of the news, and in the history of the day men have become thoroughly convinced there ought to, in fairness to the rights of the people and the legislature, be some check on the legislature, some means of convincing the legislature that there is another day and there is another body to approve their actions, and when you have that situation created in the law, then your legislature is going to be more careful and more considerate. I might cite one instance that I find in the book, that it seems to me shows a situation that influences the public mind in their attitude towards the legislature, and a law making them believe there should be some check and some control. I refer to an incident in the case of *People vs. Kirk* reported in the 162 Ill. where the Attorney General sought to have declared void certain contracts for the creation of the outer Lake Shore Drive on the north side of the City of Chicago. He failed in his case and the suit went up to the Supreme Court of this State, and it appeared that the legislature had passed an enabling act, enabling the Lincoln Park Commissioners to sell and convey ninety-two or ninety-three acres of land on the lake front, the north side, for the purpose of paying for that outer drive, from Oak Street south to Indiana Street. The Lincoln Park Commissioners made the sale and they sold the right of the State in those ninety-two or ninety-three acres for one hundred dollars a front foot and for the construction of a portion of that driveway, at an expense of less than five hundred thousand dollars. That comprises one of the most splendid parks of Chicago at this time. The Legislative Act was passed in 1889, and a man somewhat conversant with real estate matters, upon my request, gave me an estimate of what ninety-two or ninety-three acres of land was worth alone, he told me in his judgment they were worth thirty-five to forty million dollars. Now you may say that five hundred dollars was all that land was worth thirty years ago. The legislature may have thought they were doing a wise thing, the Lincoln Park Board may have acted according to its judgment, but if you listened to the people of the City of Chicago, they would have said that all of that lake front should be reserved for a park and pleasure grounds for the people and not for apartment houses or business or general commercial or residential purposes. I have the book here and with your indulgence I want to read one paragraph of what Judge Craig said in affirming the judgment and holding that all of the several actions by the successive legislative bodies and administrative bodies were proper. He said that the question of policy—I am reading from page 148—"If the question of policy were only to be considered by the court in the decision of this case we would have no hesitation in condemning the action of the legislature in passing the act as unwise and detrimental to the best interests of the people of this State, but our legislature is chosen by the people and clothed and entrusted with powers to enact laws for the people, and the propriety or impropriety of the legislature is a matter solely with the legislative department of the State. Unless an act passed by the legislature infringes upon some provision of our organic law, it is not the province of the court to declare such legislation invalid. The question before us is not one of policy or expediency, but one of power. Was the legislature clothed with power to convey reclaimed lands which were originally covered by the waters of Lake Michigan?"

It is such incidents as that that make men satisfied that where public rights are to be disposed of there ought to be a vote of the people. I think today probably if the legislature were passing upon such a situation, knowing the criticism and the public sentiment against action without the approval of the voters, would tack a referendum clause upon such legislation, but we have no assurance that they will or that they would, and I think it is such incidents as that which make the people when they have their attention called to the possibilities of their rights being frittered away or bartered away, make them feel that they should have some word, some final say, and I don't think the people of Chicago are silly because they ask for a referendum provision in the Constitution.

The gentleman from Shelby tells us that all of these evils existed in the legislature and he read from the authority of great men, he went further than that, to undertake to bring before this convention matters of charges, some proved and some not proved, against legislature, but he says that the remedy does not lie in the Initiative and Referendum. Where does it lie? Is there any improvement in the personal character, in the honesty of legislators? Are men getting better as a matter of honesty as the years go by? I think not. I don't know how you feel about it, I believe men are becoming more enlightened, and that they are becoming endowed with wider judgment and we are progressing in civilization, but that does not mean that we are necessarily progressing in honesty. The very recent history of this country has led us to believe that our honesty has had a very severe test, and in many particulars we find more flagrant evidences of personal disregard of the rules of honesty than we can find in any similar portion of America's history. You may not like to have me say that, but we are dealing with facts. We are dealing with thoughts, we are dealing with those things that have moved the minds of men and we are dealing with those things that resulted in the popular protest in the recent election, a most astonishing outpouring of American people, regardless of parties, in a protest against certain things that were considered violative of the rights of the American people, and no other reason could have caused such a tremendous upheaval in any election.

Now let me say this, I have said it before, before the committee, that I do not think that we are so peaceful and law-abiding as that we will endure everything. In fact we are extremely impulsive and extremely sentimental. We find that the American people are a temperamental people, and when appealed to on sentimental grounds, as in our entry in the war, we found men springing up with enthusiasm, and even almost the enthusiasm of the knights of old who travelled to Jerusalem to save the Holy Sepulchre. We are a sentimental people. We are sentimental and we want a chance to express ourselves, and if men cannot have the sense to protest and to register their protest, they will take direct action. There is but one answer to the failure of law and order, and that is direct action. The direct action of individuals when they make their own law and execute it. It is found in the early primitive communities of this and every other country. It is found in Soviet Russia and it is always found when men find that they cannot get in the law that justice which they demand, or the rights to which they believe they are entitled, they will take the course of direct action. I don't care whether he is a delegate to the Constitutional Convention with all the years of thought and study behind him, or whether he is a man that has never studied the course of the law, he will be just the same, one will be the same as the other. When you refer to that election through which we just passed, and see how the tense feeling of the American people found its expression, and when the election was over there seemed to be relief from all that emotion and pent up feeling of the American people, we feel that we have passed a point that was almost one of danger. If we could not have had the election and could not have gotten rid of some of the things we were opposed to, and could not have registered our protest, we would have had to find some other way to express ourselves, but that means of expression relieved the situation. Give to the people the right to review or rather to veto legislation and you will have a form of expression that will be relief, which will tend to create and relieve the tendency we have to forever rebel in our hearts against those sitting in authority or in what they do, the protest against the law. We are going to be put to the severest sort of test to maintain the supremacy of the law in this country. There is where all of the nations of the earth today are found to be struggling, found to be filled with anxiety because the law cannot be maintained. Some maintain it by force of arms, by autocratic power, some have succeeded and many have failed. We cannot succeed in this country except along the lines which take in the whole people, and takes them into consideration. We cannot be so selfish as to disregard the interests of the masses. When you read in the press that there has been an

accumulation of thirty-three thousand extra millionaires since the war—and I don't know how true it is, but it is true to some extent, to a considerable extent—you cannot understand how the man who has not got the millions of dollars or who perhaps is not so well off as he was before the war, how his heart beats in protest against conditions that would permit of such gross inequality. That is but one instance, and then you have others, and when you keep adding one to another, you finally have a citizen who is thoroughly at outs with conditions, and sometimes at outs with his government, and the law under which he lives. Then you have a condition which should be relieved and there should be some ready way of relieving it. Not a mere telling him to express our utter indifference to his feelings, but we have got to take into account the feelings of everybody. There is nobody so small or so weak or so ignorant or uneducated but he has the fullest right to be taken into consideration, and if you do not give him that opportunity he is going to be led into channels that will be undesirable and which you will regret as much as I or anyone else could.

I don't think, and I don't feel that I have any authority to talk with you on the principles of Constitution making. I have heard a lot of supposed principles on Constitution making, and I have heard many different ones, and if we had them all compiled together and built a Constitution according to the principles that have been stated here, by everyone who has undertaken to state the principles of Constitution making, we would have a most fearful and wonderful Constitution. I do not believe that there are any good Constitution makers in the State of Illinois, and I think they have got to be developed. You may have a first class lawyer and a first class intellect, and a high grade man, a deep student and all that, but to have him sit down and write a Constitution with all the complex situations that we have today, and make a good one, I confess that I have grave doubts of the ability of many men in the State of Illinois to accomplish such a desirable thing. But I further believe that a group of men such as this, who get together in a spirit of fairness, and who have a comparison of ideas and a final drafting and formulating of those ideas into a concrete composite thought of the convention, without doubt could accomplish a good Constitution. But you cannot make a good Constitution by starting out with a prejudice on any subject, and I have thought that this subject has been prejudged from the beginning, possibly not intentional. I have changed my mind on a number of subjects since I came here and I have heard others say that they have changed their minds. Possibly you all feel that you have changed your mind on some one or more subjects, but this one seems to have had the thumbs all turned down from the day we started. When the Great Commoner made his address here, why, it seemed to create consternation, and there was great excitement. We have had the Farmers' Organization represented here. They don't want any initiative and referendum. I should not think that they would. Any organization that could come down to the last legislature and get them to take the farmers out of the conspiracy statute and probably ruin the prosecution of anybody else for conspiracy certainly don't want a referendum. I do not believe the farming communities themselves would vote on a referendum, to sustain such an act as would accomplish that, by way of amendment to the conspiracy statute. Our dry friends, they don't want a referendum. Why, one dry representative pointed to this convention and said, "Look at that convention of able men and how helpless they are to do anything; what would the great mass of people of the State of Illinois say when they tried to legislate or act upon a referendum?" However, people of the State of Illinois do not require a great deal of education to know whether they want to vote wet or dry, if the matter should come up. They have been voting wet and dry for forty years or more and I think they could still keep on. But it seems to make a great deal of difference whose ox is being gored. It seems to make a lot of difference as to where somebody or other is going to be hit or hurt, and so we find these gentlemen from the outside who are so willing to advise and assist you, taking

positions one way or the other. I feel towards them in the most kindly way, and I want all of the light and assistance possible, but when a gentleman points out to me by way of argument, how ineffectual the people are to rule because of the Constitutional Convention, I feel like Job must have felt, without the boils, when some of his friends visited him and said, "Curse God, and die"—close up your affairs and quit, I suppose that is what they meant. He turned to them and said, with that most excellent piece of sarcasm he said, "No doubt but ye are the people and all wisdom will die with you." And I thought that of my dry friend who was trying to make that illustration. I haven't any right to do more than try to express to you something of what I believe the people of the district in which I live feel. I might have great difficulty in settling as an intellectual proposition whether the initiative and referendum was right in principle or not, but I could say as a matter of history and as a matter of practice in this State, it was justified and was a real and substantial thing in law making, and I can say that the people of my district and the people of this State might well have a consciousness on the subject that was greater and deeper than an intellectual activity, and my belief in the wisdom of the people who are set in the direction of right, wishing something for their own good, you cannot make me believe but what those people, animated as they are by that impulse and that thought and that motive, you cannot make me believe that they are not right, and more than that that they were wrong. I say that they have a right as a principle, under our American system, of having their own say on what shall enter into the structure of government, where they have said it over and over again. They have the right as Americans and as citizens of Illinois to have a provision on the Referendum and Initiative in the Constitution, and they have a right at your hands to vote upon the subject, as a separate proposition, when this Constitution shall be submitted to them, and if you deny them that right they will surely feel a deep sense of wrong, a sense of oppression by power, they will feel that an advantage has been taken of them that cannot be wiped out by any explanation to them, as parents might explain to a small and immature child, it was done for your own good. You have got to have a better excuse than that. And I don't know what your excuse will be. Perhaps some of you can formulate such an excuse, which will be accepted, but I have not heard any yet, and I am not prepared to say that I, as a single delegate here, have any right to overrule what has been requested over and over again. I cannot feel that I have any of the Pharisee in me on that subject. I would not have you think I am not as other people; I want to be of the people with whom I live; as an individual I am nothing. As a member of the community, as an expression of that community and the thought of that community I may achieve the fullest possibility of a man; if I fail in that then I am an unworthy delegate in this convention. They have the right to my action, such as it may be; weak and ineffectual as it probably is; they have the right to that expression of what they believe in any way that I can manifest it or record it.

Mr. JOHNSON (Bureau). I have listened with a great deal of interest to your cold and deliberate address and I simply wish to inquire what your understanding of the proposal was that was submitted to the voters at the election in question?

Mr. McEWEN (Cook). My understanding was as it was printed and published; without it before me I would not undertake to narrate to you its terms.

Mr. JOHNSON (Bureau). And do I understand that in substance it was for or against the Initiative and Referendum?

Mr. McEWEN (Cook). Yes.

Mr. JOHNSON (Bureau). And your people voted in favor of the proposition?

Mr. McEWEN (Cook). Yes, sir.

Mr. JOHNSON (Bureau). And your position is that if your constituency had voted against the initiative and referendum, you would stand here according to that vote?

Mr. McEWEN (Cook). Well, otherwise I would not have gotten up and talked.

Mr. JOHNSON (Bureau). It happened that my constituency voted against both propositions.

Mr. McEWEN (Cook). Then your questions are for the purpose of bringing out a justification for what you are doing.

Mr. TRAUTMANN (St. Clair). I desire to offer the following amendment and move its adoption.

AMENDMENT No. 3.

Amend Section 2 by adding the following: After line 39 as a separate paragraph: "F." No Act or part thereof shall be submitted to the electors or referendum petition which makes the appropriation for the ordinary and contingent expenses of the State Government and State Institutions, or which effects the pleading, practice or procedure of the courts."

Mr. TRAUTMANN (St. Clair). This amendment refers to the last sentence of section 3 commencing on top of page 4, which I desire to make by this amendment a separate paragraph at the bottom of line 39, to be known as paragraph "f". I am offering this in good faith, and if it becomes a part of section 2 I am ready to vote for section 2, but I think the two of them should go together. I am not in favor of a referendum on appropriation bills. I was very much impressed by the remarks made by the gentlemen preceding me with reference to the referendum. The legislature has extended the referendum to the people in many instances, and no doubt will in many more, whether we have a new Constitution or not. But section 2 gives the people an opportunity for a referendum on certain issues, if the legislature does not incorporate it in the act itself, and I do not see where this can do any particular harm to any legislation that might be submitted to the people under section 2, and for that reason I am in favor of section 2 if this amendment is adopted.

Mr. CARLSTROM (Mercer). Without objection, the committee is willing that the amendment be considered as made.

Mr. GORMAN (Cook). I also feel I have received from my constituents authority to act for them. I do not believe this amendment ought to be limited in this way. I believe the people, on practically all questions except matters of appropriation and emergency, ought to have the right to vote on questions submitted to them. When we were discussing the question of issuing more bonds for the deep waterway project, some of the members opposed to the referendum in principle even offered as an amendment that any bonds to be issued in the future should be issued only upon referendum to the people. Only the other day when we were discussing the article on revenue a substitute was offered to submit the question of public ownership of public utilities to the people by referendum. I think the people have had discrimination in the past. They have done so in the City of Chicago on bond issues. I remember several occasions where they showed what was considered to be rare judgment. I think they can act on all questions as well under a referendum. I think the people ought to have an opportunity to have a referendum vote on practically all questions.

Mr. SUTHERLAND (Cook). As the hour is late, and there may be others who wish to discuss this matter, I move that the committee now rise, report progress, and ask leave to sit again.

(Motion carried, and President Woodward resumed the chair.)

Mr. DOVE (Shelby). Your committee having under consideration the Initiative and Referendum proposal reports progress, and asks leave to sit again.

(Report adopted.)

Mr. SHANAHAN (Cook). I move that when this convention adjourns, it do stand adjourned until nine o'clock tomorrow morning.

(Motion carried.)

Mr. DUPUY (Cook). I desire to offer the following resolution and move its adoption:

RESOLUTION No. 32.

WHEREAS, The convention has learned this day of the death of the beloved wife of Mr. Charles S. Cutting, a delegate to this convention; therefore, be it

Resolved, That we hereby express to Mr. Cutting our profound sorrow at the loss of his beloved wife and extend to him and to the members of his bereaved family our deep and earnest sympathy; and, be it further

Resolved, That this memorial be entered upon the records of the convention; that a suitably engrossed copy be transmitted to Mr. Cutting and as a further mark of respect the convention do now adjourn.

Mr. DUPLY (Cook). The information concerning the death of Mrs. Cutting came to me directly by telephone, I having called the home to tell them that the Judge was on his way back. The lady at the other end of the line informed me that Mrs. Cutting had died at 1:30 o'clock today, some two hours before Judge Cutting received his telephone call; and he did not know of the situation when he left the convention. I am sure that this resolution voices the sentiment of every man here, expressing our sympathy to him at this time.

Adopted.

Whereupon an adjournment was taken until Tuesday, November 23d, 1920, at 9 A. M.

TUESDAY, NOVEMBER 23, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Thursday, November 18, 1920, has been placed on the desks of the delegates and is now subject to correction. There being no corrections proposed, the Journal of Thursday, November 18, will stand approved and it is so ordered.

Reports of standing committees. Motions and resolutions. General orders of the day. No general orders of the day. The convention will now resolve itself into the Committee of the Whole for the purpose of further considering the report of the Committee on Initiative and Referendum. The chair delegates Delegate Dove to act as chairman of the Committee of the Whole.

(Whereupon the convention resolved itself into the Committee of the Whole with Delegate Dove in the chair.)

CHAIRMAN DOVE. At the time we recessed last evening we had under discussion section 2 of the majority report, and there was then pending a motion to adopt that section.

Mr. SUTHERLAND (Cook). Mr. Chairman, I desire to say a few words on the subject of that motion. I want to make it very clear, Mr. Chairman and gentlemen, that in anything that I may say I have no intention whatever to quarrel with the views held by others with which I cannot hold, to impugn the motives or the Americanism of any delegate or any citizen with whom I cannot fully and heartily agree. Opinions must differ, but we must guide ourselves by what seems to be for the best interest of the common good.

It seems to me last night, Mr. Chairman, the very fine presentation of the limitations of this Proposal No. 367 by the distinguished delegate from Mercer, and the calm, dispassionate discussion by the distinguished delegate from the twenty-fifth district in Cook county, added much to the literature on the subject, but it seems to me also, Mr. Chairman, that what they said cannot go entirely without challenge; boiled down it seems their arguments resolve themselves into two propositions: First, from the delegate from Mercer, "Behold what an innocuous and pleasant substitute we have here proposed to embody in a mild limited form the principle of direct legislation, direct political action." By the last speaker in extenso the proposition that "the cure for the ills of democracy" is more democracy. It seems to me that we ought to stop and consider whether we are going to stand upon that precept or whether we are going to heed the counsels of the early commentators upon the Federal Constitution and our form or republican government distinctively American, as voiced by Macaulay in a warning letter to an American friend, that the real test of representative government in the United States would come in future years when the checks and balances might seem irksome and when there would be greater and greater effort to depart from those checks and balances and to return to direct political action which had ruined the democracies of early time.

And, Mr. Chairman, it seems to me that it is idle for us to consider anything of the character here proposed, because after all the underlying thing is the basic principle. And, Mr. Chairman, we have only to look

over the history of our own States that have adopted the Initiative and Referendum to see the tendency grow. The distinguished delegate from the twenty-fifth district well observed that no state that had adopted the Initiative and Referendum had ever rejected it and gone back to a purely republican form of government.

More than that, every State that has adopted it has gone farther on the road, and they either have used the form of initiative already granted to wipe out the restrictions originally put in, or with that as a basis they have pleaded with the legislature that, the principle being acknowledged, the operation should be made more easily workable. The record is clear.

Arizona adopted the Initiative and Referendum in 1911. In 1912 she added the recall of judges. In 1914, by initiative amendment they adopted this provision, that the Governor shall have no power to veto any initiative measure, and further that the General Assembly shall have no power to repeal or to amend any initiative measure that has been adopted by the vote of the people. In 1916 an effort was made to check the court of direct legislation in that State by requiring a majority of all votes cast at the election, but that failed, although by a small margin, and, in 1916, the movement against representative government was still progressing, for an initiative amendment to do away with the State senate was put up and came very near to adoption.

Arkansas adopted the Initiative and Referendum in 1910. In 1912 they limited the legislative session to 60 days. In 1912 they adopted the recall of all officials, including judges. In 1916 they rejected a restriction on the Initiative and Referendum, and in 1918 they rejected a resolution for a new Constitutional Convention.

Colorado adopted the Initiative and Referendum in 1910 and in 1912 followed it with the recall of all officials, including judges, and with the recall of judicial decisions. They rejected a proposition to prohibit the initiation within six years of a measure that had been rejected at the polls.

Missouri adopted the Initiative and Referendum in 1908. Since that time they have been pestered to death with the activities of the single taxers using the initiative to promote their views. In each case the single tax proposition has been overwhelmingly voted down, and in 1914 the General Assembly passed an amendment that the use of the initiative should be excluded from the subject of the single tax.

Now, it is proposed by some gentlemen here that we have a State-wide referendum only, section 1 having been defeated. Nevada started out with the referendum only in 1904. In 1912 the legislature was over-persuaded, and they submitted an initiative amendment which was adopted, and then they followed with the proposition for the recall of all officials.

Let me call your attention to one further thing: North Dakota adopted the Initiative and Referendum in 1916. In 1918 an initiative amendment was adopted which reduced the percentage requirements as follows: Previously the percentage on laws had been 10 per cent of the voters, and they must be secured in a majority of the counties of the State. That was reduced by this amendment to 10,000 electors at large in the State of North Dakota. For a referendum the provision formerly had been 7 per cent in a majority of the counties before a well considered act of the legislative body could be interfered with, and that was reduced to 7,000 voters; and for amending the Constitution they changed it from 25 per cent of the voters in a majority of the counties to 20,000 electors at large anywhere in the State of North Dakota, and then they went farther than that. They proceeded to enact the provision that no measure enacted by the voters shall be repealed or amended by the legislature except by a two-thirds vote of all members elected to each house, and still further that no law passed shall be declared unconstitutional by the Supreme Court unless concurred in by four out of the five Supreme Court justices.

Surely, it cannot be successfully urged that this is not a measure looking directly toward the overthrow, the weakening of representative government. Let me pause to say that between the referenda which have been

referred to by the distinguished speakers, including the distinguished delegate from the fourth district, who presented so scholarly an address last evening, and the referendum here proposed by petition, there is a vast difference. It is the difference between a referendum on any and all matters that have had legislative consideration, and a referendum which because of its character is vitally important to the voters, such as incurring tremendous debts, making of special appropriations, the adoption of charter amendments and changes in the basic law, and so forth, but between that and the granting to any one getting petitions signed of the opportunity to interfere with the orderly processes of legislation, there is a vast difference.

Now, Mr. Chairman, as I see it, this is not a movement alone to weaken representative government in the State of Illinois. Twenty-two States have adopted some form or other of direct legislation, and we are asked to be the twenty-third. It is part of a Nation-wide movement. It is the intention to spread it to the State, and, as soon as may be, to spread these principles to the Federal Government itself. If any one doubts that, I would suggest that they refer to the Hearst papers of October 12, 1919. Those papers, it has been stated by the distinguished chairman of the Initiative and Referendum committee, are chiefly, if not wholly, responsible for the renewal of this agitation, which had well nigh passed away, and in that paper we find a signed editorial by William Randolph Hearst himself, the owner of a great string of newspapers and magazines that stretches across the continent, and here are the things that he lays down as desirable changes in government:

"To nominate for the Presidency by direct nomination and to elect by popular vote.

"To elect cabinet officers and make them responsible to Congress.

"To deprive the President of the power of patronage; to put all public officers as nearly as possible under civil service, and have appointments made by a committee of Congress.

"To elect Federal judges, including the Supreme Court judges, by popular vote.

"To apply the Initiative, the Referendum and the Recall to national matters!"

And to show that that was not merely a passing whim, as indicated by the Hearst papers of last spring, of which I hold a copy of May 20, 1920, in my hand, at the head of the editorial column it says: "Measures to cure most of troubles which alarm and distress us:

"To nominate for the Presidency by direct nomination and to elect by popular vote.

"To elect cabinet officers and make them responsible to Congress.

"To deprive the President of the power of patronage; to put all public offices as nearly as possible under civil service, and have appointments made by a committee of Congress.

"To elect Federal judges, including the Supreme Court justices, by popular vote.

"To apply the Initiative, the Referendum and the Recall to national matters!"

Now, Mr. Chairman, I do not impugn the motives of any one who thinks that those are desirable things, but I think that they either have not read, or have not appreciated, history. The attack on the fundamental principles of this Government has been going on insidiously for a long, long time. The first printed record of it goes back as far as 1890 or before, and we find in the pages of a "Constitutional and Political History of the United States," by Professor Hermann Eduard Von Holst, this attack on the institutions which then were venerated by the people, and here is what he says:

"It is possible for us to trace the earliest beginnings of the worship of the Constitution. At first it was looked upon as the best possible Constitution for the United States. By degrees it came to be universally considered as a masterpiece applicable to every country. This was preached

with so much unanimity and honest conviction, although internal quarrels were raging all the time, that the propagandism of the new faith reached even to Europe.

"This is not the place to go into a thorough investigation of the causes which led all classes of the people to a veneration for the Constitution, that bore at once the character of an esteem which did much good and of a most ruinous idolatry in which the idol worshipped was themselves.

"The political philosophy of the masses was comprised in these vague maxims. They clung to them with all the self-complacent obstinacy of the lowest and most numerous body of the working classes. They were nowhere more sensitive than here. Whoever desired their favor dared not touch this idol of theirs, and could scarcely ignore it unpunished. The fetish had been raised up for the worship of the masses by their leaders, and the masses in turn compelled their leaders to fall down and adore it. Under no form of government is it so dangerous to erect a political idol as in democratic republic, for once erected, it is the political sin against the Holy Spirit to lay hands upon it."

And, Mr. Chairman, beginning with the sneers and the slurs of Von Holst, it became popular for dilettantes and theoretical academicians to belittle the sacred institutions which had made us a great Nation, and propagandists were not idle in this country in starting attacks upon our form of government, trying to weaken it so that when the hour of peril for the Nation came, the hour that an enemy might come, there would be a crack in the solid foundation wall of the Republic against which the battering ram of force might be struck.

And when, Mr. Chairman, we were on the verge of going into the world conflict, one of the important, if not the important, reason for agitating a departure and a break-down from our republican form of government became apparent because here and there and everywhere across the country there came the demand for a referendum and on what question? On the question of going to war!

Now, Mr. Chairman, imagine what that means. I quote from the Chicago Examiner of Wednesday, February 14, 1917, an editorial addressed to the Congress of the United States:

"The President has come to the end of his constitutional authority with the dismissal of the German Ambassador. From that moment the Constitution clothed you, Senators and Representatives, with the sole power to decide what next shall be done. And your first anxiety and indeed your very first offer, should be to ascertain the will of the American people.

"Now, upon these questions hangs the issue of peace or war and since the common people must be the ones to pay for the war, to fight the war, and to endure all of the agonies of war, if war happens, we insist that the common people have a right to be consulted by you who are their only representatives and their only voice, before they are plunged into any war by any vote of yours.

"Therefore, we must earnestly urge that you, senators and representatives, order a referendum of these questions to the people themselves and that the majority of the votes cast in that election be considered binding upon you when you act in your official capacity."

And, Mr. Chairman, now I think it becomes and will appear evident why the questions that I asked of that poor misguided man who stood before us last February, were relevant and pertinent, because he was urging, as the record now shows, a referendum on the question of going to war and on the question of the manner in which we should conduct the war, and on the efficiency with which our efforts in the war should be directed. I did not get an opportunity that night to ask that question because there was a break down in the questioning and a recess intervened and he did not come back after the recess. Mr. Chairman, it behooves us to consider what a referendum would mean in a crisis like that; the enemy knocking at the gate, at our very door; and the pacifists and non-resistants, urging that we

take a vote of the whole vast American people as to whether they wanted to fight; and while we were taking that vote no preparations being made, no training camps in progress, no munitions being manufactured. Helpless and hopeless we would stand facing the invading foe, prepared and alert and armed, while we were taking a referendum on the manner of conducting the war. Think of the opportunity for treasonable utterance under license of political free speech; of divided councils instead of a United Nation! Then in the midst of the war something goes wrong for a minute, Congress makes a mistake for a minute, and we disturb the country with a referendum when we should be presenting a united front.

If democracy is to endure, Mr. Chairman, it must endure because the people stand united as they always have stood in this republic in times of crisis, and not be weakened as the early democracies of Greece were weakened because any one could stir up trouble, selling out to the enemies of the country, so turned the people upside down in a turmoil of confusion and thought that no united front could be presented, and the enemy was in their midst before they knew the thing had happened.

So, Mr. Chairman, it seems to me that the issue is not merely to uphold stable government in the State of Illinois, but it is whether we shall encourage a movement directed at the very fabric and foundation upon which our popular government has rested and must continue to rest if we are to be a great people, a happy people, a peaceful people.

Mr. Chairman, I don't see how any man who holds the views that I hold can vote to submit this question to the voters, even though he were confident that they would reject it when it was fully presented to them, because if I did so vote how could I go out and explain that I was doing merely an act of expediency, that I was not by my vote endorsing the thing for which I voted? I think, Mr. Chairman, I should be in a most embarrassing position.

I am not embarrassed now. I stated my position clearly in both the primary and election campaign. While the vote in my district was slightly in favor of the "I. and R." I was overwhelmingly nominated and elected, and the people knew where I stood.

Now, Mr. Chairman, I think that the issue here is the republic itself, and I hope that, as Illinois came into the Union as the binder state, to preserve harmony and unity between the conflicting North and South on the slavery question, it will remain as the real keystone of the republic, of representative government, and will continue, despite even the advancing wave of this fanatical theory, to stand firm holding high the torch of American representative government. (Applause.)

Mr. CARLSTROM (Mercer). Mr. Chairman, I do not know that we ought to prolong the agony, but I would like to remind the gentleman from Cook who has just spoken with such eloquence and who has put terror in my heart so that I stand here now trembling for my country with fear at the picture that he has painted—I would like to call the gentleman's attention to the public utterance of one of the ablest men this country has ever produced, just eight years ago, when Colonel Theodore Roosevelt was a candidate for President of the United States, and told the people of this country that their government was in danger because of the people who were a part of it! Oh, no. The danger that he depicted came from entirely different sources, and today, if there is any danger to the Government of the United States, it does not come from the free will, the free action or the thought of the American people as people.

I think that perhaps I have assisted in holding up the torch of American liberty as much as any one in this convention. When I voted for the submission of the majority report to this convention in order that it might be discussed on the floor, a delegate who was present charged that that sort of a vote was in violation of a man's oath to support the Constitution of the United States, and I took sharp issue with that. I think I have raised my hand and sworn to defend the Constitution of the United States perhaps as often as any one here, and it seems to me this is all folderol

and bosh to talk about the threats of a government at the hands of the people themselves to that government. The entire theory and principle of American legislative government is based upon the idea that the people in the last analysis are the government.

I know the attitude of this convention, and I know that it is useless for me to say anything here in defense of this proposition, but I do not wish to stand silent and be accused as one who is seeking to overthrow the foundations of my Government, either State or Nation.

Take in 1911, when Mr. Roosevelt was about to become a candidate for President, the legislative bodies here and across the hall passed legislation primarily for a presidential primary in order that his appeal for candidacy might be directed to the people of Illinois, because they thought that he was voicing the things and sentiments and that he stood for the protection of the right of common folk in such a way that it appealed to them. Again and again, when that appeal has been made whereby the people themselves would express their opinions, they were speaking for their own protection and in their own faith.

I want to register myself here as being willing to trust the people's instruction. I am no better than my fellow citizens. The fact that they selected me as a delegate to this Constitutional Convention did not deify me, nor did it clothe me with the superior measure of intelligence to enable me to stand here and do as I think right. I am willing to trust the people. That is all that this proposition is asking.

Let us look back to the experience of America and listen to the voice of her real statesmen who have told us of these dangers, warned us again and again, and let us see to it that the door is not closed against the expression of will of the people upon any public question which touches their interest at large.

Gentlemen, I am not only in favor of this referendum portion of this proposal, but the more I hear the entire proposal discussed, the more firmly I am convinced that this convention should adopt and submit to the people the right to pass upon both elements of this question. I am for section 2 of this report, as well as section 1, which has already been defeated.

Mr. KERRICK (McLean). Mr. Chairman, I had not intended to make any remarks, and I shall speak very briefly. I have been reminded by what has been said, of a few things that I wish to mention. I read that celebrated address delivered 12 years ago, and it also included the recommendation of the recall of judicial decisions which we all know was recalled by the one who made the proposal in that great speech, and not insisted upon very long. The greatest of men make great mistakes.

Reference has been made to what occurred in the Committee on Initiative and Referendum, what was said by a certain delegate, and what was given as his reason for not voting upon a certain proposition which arose in that committee, which proposition was whether or not the members called upon to vote favored a proposition which provided a means by which the Constitution of the State of Illinois could at a single election held after 90 days had elapsed from the securing of a petition, could be entirely abrogated and rendered null and void. Upon that question the delegate to whom reference has been made stated that he would consider and vote for a proposition like that, an attack upon the Constitution and in violation of the oath to support the Constitution which he had taken on a number of occasions. And upon that proposition the delegate who received so great offense from that statement voted with the delegate who made the statement. The vote was eight to seven against returning to this convention anything that looked to the destruction of the Constitution of the State of Illinois. That is a matter which cannot be successfully contradicted, and those are exactly the circumstances under which the statement referred to was made, and he voted as I did upon the question which was up for consideration at the time that statement was made.

Mr. SUTHERLAND (Cook). Mr. Chairman, will the distinguished delegate from Mercer yield to a question or two?

Mr. CARLSTROM (Mercer). I will try to answer them.

Mr. SUTHERLAND (Cook). You have read the statement of Theodore Roosevelt, made in 1912, on the subject of Initiative and Referendum?

Mr. CARLSTROM (Mercer). I have. I do not recall it in detail at this time.

Mr. SUTHERLAND (Cook). And you will recall that he stated that it should be very carefully safeguarded, and that to use it without limitations would bring disaster, do you not?

Mr. CARLSTROM (Mercer). Yes, sir.

Mr. SUTHERLAND (Cook). At that time the history of the United States and all these States that have the Initiative and Referendum had not developed to the extent it has in the eight years succeeding, had it?

Mr. CARLSTROM (Mercer). Why, in some of the States it had, yes, sir. As to all of them, I cannot say.

Mr. SUTHERLAND (Cook). He could not have been aware at that time of the use of the initiative to still further expand, and remove the limitations originally put in, could he?

Mr. CARLSTROM (Mercer). I don't know what you mean.

Mr. SUTHERLAND (Cook). I mean that the many instances I have cited, the departures from and removals of restrictions originally put in the Initiative and Referendum provisions, have mostly occurred since 1912, so that at that time he could not have observed the tendency.

Mr. CARLSTROM (Mercer). You have reference to the Non-Partisan League of North Dakota?

Mr. SUTHERLAND (Cook). Oh, I have reference to all these instances and many others which I have cited this morning. Now, I would also like to ask whether you think President Roosevelt would have urged a referendum on the question of going to war, with all the delay that would have entailed?

Mr. CARLSTROM (Mercer). No, sir, but I am glad you asked me that question. We could not have a referendum in the United States because we were facing danger, but the principle that underlies that is this, that if the people of the country which initiates war were allowed a free expression, the chances are we would not have any, and there would not be any occasion either for congressional action or referendum action in the United States. There is the great principle which lies at the bottom of this.

Mr. SUTHERLAND (Cook). Mr. Chairman, I would like to ask the gentleman whether this country ever for purposes of aggression initiated war?

Mr. CARLSTROM (Mercer). Certainly not; that is not the question in issue.

Mr. SUTHERLAND (Cook). That is because we have free popular government in this country, is it not?

Mr. CARLSTROM (Mercer). Because more or less our representative government has been responsible to the people themselves, that is why.

Mr. SUTHERLAND (Cook). You think that if it is granted, which I do not grant, that a referendum on international questions of state is desirable in any Nation, that this Nation should adopt that principle in advance of other nations?

Mr. CARLSTROM (Mercer). No, sir, that is one of the things that we are seeking to adopt, an understanding between the nations. If we do not adopt that as a basis of understanding between nations, we may as well forget the whole proposition.

Mr. WHITMAN (Boone). I am not arising at the present time for any long discussion in regard to the merits of the referendum. There are one or two practical suggestions which it seems to me should be made to this convention.

We are facing a condition and not a theory. We already have to a great extent legislative referendum. Why should we fear to have a constitutional referendum? The people of this State have voted on more than one occasion in favor of the principle of a referendum. I will grant that

these votes are not conclusive. I will grant that only a small proportion of people in the State have voted, but so far as they are indicative of anything, they are indicative of the desire of the people that we should have a referendum. And the practical proposition to which I wish to address myself is this, that unless you give these people a chance to vote upon this proposition, you are dealing the adoption of the Constitution itself almost a vital blow.

In my judgment, this proposition for referendum should pass, it should be placed as a separate article before the people. Then these people who desire to vote on the proposition will also vote for the body of the Constitution, but if you give them no chance to vote upon this proposition, then you well nigh doom your Constitution, because every person who is in favor of a referendum will vote against the main proposition itself. Now, I am in favor of that method of handling this. I would not be in favor of putting this into the body of the Constitution, because you then meet the opposite, and the people who are against the referendum under any circumstances would then vote against the whole Constitution because it is in the body thereof, but as a separate proposition we are only giving the people what they have a right to determine, and with five or six months education on this proposition, if it is not a good proposition, the people themselves will vote it down. If it is a good proposition they will vote it up, and we will save our Constitution also. Let us then meet this condition face to face and take into consideration one of the propositions that is vital to the success of the Constitution.

Mr. LINDLY (Bond). Mr. Chairman, I desire to say only one word, that I am in favor of the referendum if it is adopted finally with the amendment that Mr. Trautmann offered. I will vote against it if it is not so amended.

Mr. WOLFF (Cook). Mr. Chairman, I was one who voted against Mr. Trautmann's amendment. I now move that we reconsider Mr. Trautmann's amendment, which was the last vote that we took in the Committee of the Whole.

CHAIRMAN DOVE. The clerk will please read that amendment.

(Amendment read.)

(Motion to reconsider lost.)

Mr. RINAKER (Macoupin). It seems to me there are some excellent members of this convention who are temporizing with something that is inherently and dangerously bad, and for one, I want to protest against any temporizing with this subject. It is to me very much like temporizing with a law intended to punish an offense. If the thing is wrong, do not sugar coat it, but try to get it in some shape so that it will not be quite as bad as it might be. It seems to me that we want to defeat the entire proposition emphatically, and take a stand in this convention in favor of the principles that have made us a Nation that is the model of the world. It has been stated, and it is a fact, that on occasion a reference of a proposed law to the people is proper. There is no objection to that in a proper case, and under our present Constitution that has been done, and it can be done, of course, in the future. But with the little legislative experience I have had, I find there is a growing disposition on the part of members of the legislature to shirk the duty they should bear as representatives of the people.

The common legislative expression is, "We will pass the buck to the people," and it is a dangerous principle in legislation. Men selected by the people are selected on their merits, and sent to the legislature to act for the people, and when those men meet in a legislative assembly, it is their duty to express their judgment, honestly and fearlessly, with the consciousness that if they err, if they are dishonest, if they do not fairly represent the sentiment of the people, their political lives are short. That is a sufficient restraint upon the representatives of the people. But if they avoid responsibility by saying, "We will have in our Constitution a provision that per-

mits a small minority of the people to get up an agitation for the repeal of a law, we are not representatives of the people, but mere rubber stamps sent to the legislature of our several localities, not to exercise our judgment, but to get by the best we can; and in that way the validity, life and value of the legislature is destroyed.

I protest against any attempt to sugar-coat the subject, or to make it easier to throw it back on the people, in that way—I do not say intentionally, but necessarily—undertaking the substantial destruction of our form of government. Throw no sop to any one. This principle is either right or wrong. The experience of the ages is that it is wrong, and I hope the referendum will go the way of the initiative.

(Section 2 was rejected.)

Mr. CARLSTROM (Mercer). It seems to me useless to consider these further sections, because the two principles involved have both been defeated, and I believe the motion of Mr. Corcoran would be in order at this time.

CHAIRMAN DOVE. Under the rules to which the gentleman called attention last night, we must proceed section by section, unless the rules be suspended.

(Section 3 read and rejected.)

(Section 4 read and rejected.)

Mr. CORCORAN (Cook). I move we now consider minority report Proposal 368.

CHAIRMAN DOVE. I think that is the proper procedure without a motion.

(Section 1 read.)

Mr. CORCORAN (Cook). I may have seemed insistent on this, but before I pledged myself to the public policy questions, I considered them very seriously. In Cook county there was one gentleman who stood out as advocating the Initiative and Referendum, Mr. Herbert S. Bigelow. Before I signed the pledge I talked the matter over with that gentleman, and suggested the percentage basis instead of the round numbers in petitions, and also the indirect instead of the direct initiative. He told me they were unalterably opposed to it, but when I came to look over the majority report I found they had the percentage, and the indirect initiative. I also found they did not follow the public policy questions which were voted upon by the people. While we have heard a good deal about the will of the people as expressed by their vote, in the majority report, I do not find either question one or question two.

Therefore, in keeping with my pledge, I hope this report will be given fair consideration upon the floor.

Mr. SCANLAN (LaSalle). I voted for the committee report, because to my mind the indirect initiative gave the legislature a chance to pass the legislation desired. However, I am opposed to this pending proposition because it is the direct initiative, and wide open, and I shall vote against it when it is reached.

(Section 1 rejected.)

(Section 2 read and rejected.)

(Section 3 read and rejected.)

(Section 4 read and rejected.)

(Section 5 read and rejected.)

(Section 6 read and rejected.)

(Section 7 read and rejected.)

(Section 8 read and rejected.)

(Section 9 read and rejected.)

CHAIRMAN DOVE. The clerk will now read section 1 of minority report Proposal No. 371.

(Section 1 read and rejected.)

Mr. GOODYEAR (Iroquois). I now move the adoption of the minority report of the Committee on Initiative, Referendum and Recall, signed by Delegates Mills, Kerrick, McGuire, Taff, Dupuy, Dove and Goodyear.

(Report read and adopted by vote of 44 yeas, 19 nays.)

Mr. PADDOCK (Sangamon). I move that the committee do now rise and report.

(Motion carried, and President Woodward in the chair.)

Mr. DOVE (Shelby). Your committee having under consideration the report of the Committee on Initiative, Referendum and Recall, reports the rejection of majority report No. 367, and minority reports 368 and 371, and the adoption of the minority report recommending to the convention that no initiative or referendum be incorporated in the new Constitution, which report has not yet been printed.

Mr. LATCHFORD (Cook). On behalf of the Committee on Initiative and Referendum, with six other men of that committee, I desire a roll call, and respectfully ask, for the benefit of some who voted in favor of the referendum and not the initiative, that a roll call be had on both sections 1 and 2, respectively, of the majority report. Those making this request are: Traeger, O'Brien, Wolff, Ganschow, Kunde and Latchford.

PRESIDENT WOODWARD. As the chair understands it, the question is upon the adoption of the report of the committee, and the chair does not understand that a separate vote can be taken at this time, and will so rule.

Mr. LATCHFORD (Cook). Then I ask a roll call on the adoption of the report.

(Roll call.)

PRESIDENT WOODWARD. The vote is: Yeas 52, nays 20, and accordingly the report is adopted.

Mr. MICHAELSON (Cook). I move that this convention adjourn sine die. I do this in the firm belief that this convention has failed in its purpose. Several things have contributed to this. In the first place, the convention, now nearly a year old, has failed to appoint the very important committee on submission, to which was referred a proposal that the Constitution be printed, published and mailed to every qualified voter in the State of Illinois, that they might know what this Constitution was to contain. That has not been done. The committee has not even been appointed. Now, the one thing which will give the people an opportunity for a free and open expression in matters pertaining to their welfare has been rejected by this convention, and the bosses of the convention have had their way. It is now time to go back to the people and report that further meeting here would be futile, and for that reason I make this motion. Other things have come about within recent days that should speedily bring this convention to a close.

The State of Illinois for the next four years will have a people's Governor. The City of Chicago for the five years past has had a people's mayor, and will have two years to go. This question which has been rejected by this convention was a people's measure, and these two officials, I predict, will be as they have in the past, on the side of the people and the people's measures. We cannot expect the work of this convention now, in the face of this rejection, to get the aid and assistance in the passage of the product of this convention that will be most needed. I believe that further time spent here would be wasted, and that further effort would be futile, and now is the time to slam the desks with a slam that will be heard all over the state. I renew my motion.

(Roll call.)

PRESIDENT WOODWARD. The vote is: Yeas 9, nays 63, and accordingly the motion is lost. The convention is now ready to resolve itself again in Committee of the Whole for the purpose of considering the report of the Committee on Chicago and Cook County. The chair designates Delegate Hull to act as chairman of the Committee of the Whole.

CHAIRMAN HULL. The committee will come to order. I believe this is practically the last committee report which is to be considered in Committee of the Whole. Some time ago, you will remember, the Committee on municipalities, presented a joint report and the Committee of the

Chicago and Cook County, acting in co-operation with Mr. Garrett's committee. The whole rejected that report. It was necessary, therefore, for the Committee on Chicago and Cook County to present a separate report. We have done so. The report took as a point of departure the request of the City Council of Chicago, and has as its three essential features of home rule a general grant of corporate powers to the city, subject to legislative control, the grant of power to make its own charter, so far as the organization of the city is concerned, and provision with respect to special legislation for the City of Chicago. It also has provision with reference to Cook county which will develop in the reading.

The Secretary will read the report in its entirety, in accordance with the rules of the convention.

(Proposal 385 read.)

CHAIRMAN HULL. Now, in accordance with the rules, it will be taken up section by section. Before proceeding, however, I would ask Delegate Walter Wilson to take the chair.

(Delegate Wilson in the chair.)

Mr. HULL (Cook). I ask that we proceed to the reading and consideration of the sections separately.

(Section 1 read.)

Mr. HULL (Cook). I move the adoption of section 1. It constitutes a broad constitutional grant of corporate powers to the City of Chicago. The corporate powers of cities now are given by legislative action, by the Cities and Villages act, and by other separate acts. This grant of power only goes to the exercise of power sufficient for local self government and corporate action for municipal purposes. Those phrases have been fairly well defined by the courts, so that, for instance, no grant of power could be given here to punish a felony, or anything of that kind. The grant is also subject, as you will note, to future and existing general laws. It is not intended to grant to the city any sovereignty that is not subject to the action of the State through its legislative body, when that action is taken by general grant.

There is in the last sentence of this section a statement intended for the purpose of clarity, to show that the grant of general corporate powers does not include taxing powers and borrowing powers, and that these powers have to be considered separately, and they are considered separately.

(Section 1 adopted.)

(Section 2 read.)

Mr. HULL (Cook). I move its adoption.

Mr. DUNLAP (Champaign). I would be interested in hearing the chairman of this committee give a comprehensive idea of what this particular article will do for Chicago, how it affects the relations of Chicago with the State, how far the city can proceed under this Constitution, regardless of general State laws, whether or not it takes the city out from under general laws that affect what might be called, perhaps, in a limited sense the police powers of the State. I feel that I would like to give Chicago by my vote at least authority to proceed along lines that do not interfere with such laws as the State in regard to its own welfare, may consider should be general in character.

Mr. HULL (Cook). The subject was discussed at previous meetings of the committee of the whole, when the joint report mentioned was submitted here, so I had not supposed it would be necessary to cover the ground as exhaustively again. It is not intended by this article to take the City of Chicago out from under general legislative control in any thing except where it is specifically specified in the article. For instance, in section 1, which we have approved, it is said that "subject to existing and future laws, the City of Chicago is granted and declared to possess full powers of local self-government." The grant there is given specifically subject to general legislation by the State, and there is no attempt to set up any separate sovereignty outside of the general police powers of the State.

We believe that police powers and general powers granted to the city should, broadly speaking, always be subject to State control. The difference between the situation which it creates and the situation which now exists is that the presumption would be in favor of the exercise of powers which have become local and municipal powers now, and it will not be necessary to have them specifically granted.

I fancy that as a matter of experience there are very few powers which the City of Chicago would require for the purpose of local self-government, which have not already been granted in the Cities and Villages Act, or in other legislative acts, but there has been continually an appeal made to the legislature in little matters to amend the Cities and Villages Act to give them a little power—for instance, in the case of the Municipal Pier, to authorize them to rent out the right of the restaurant privileges, and that sort of thing. The specific statutory grants are always subject to strict construction, and that makes it necessary for the city to come down here continually and take up a lot of time asking for powers which they ought to have without having to come here.

If the city should attempt to exercise any power which is contrary to the policy of the State, the right is reserved to the legislature to veto it by any general legislation applicable to all the cities of the State.

Mr. JOHNSON (Bureau). Under section 1 we have this language: "This grant of powers shall be liberally construed and no such power of local government or corporate action shall be presumed to be denied by reason of not being specified in this Constitution, or in existing or future laws." All legislative power, as I understand it, is vested in the general assembly, to start with, over all matters which concern the people of Illinois, but they have not particularly exercised by statute some of those powers, which perhaps remain latent.

As I understand this construction, those powers which have not been specifically exercised, and mentioned and enumerated in legislative acts, by reason of that fact are not denied to the city government of Chicago, and the city may exercise them if they are not specifically mentioned in legislative act. Am I right?

Mr. HULL (Cook). Provided they are power of local government, and provided that the State does not by subsequent act deny that power.

Mr. JOHNSON (Bureau). If that be true, if the legislature has not seen fit to exercise such legislative sovereign power, no occasion having arisen for the exercise of that power therefore it is not denied to the city, is it?

Mr. HULL (Cook). Provided it is power of local government, not corporate action for municipal purposes.

Mr. JOHNSON (Bureau). What is there that you have in mind that the proposal states that has not been expressed or denied by the General Assembly?

Mr. HULL (Cook). Specifically I have nothing at this moment in mind, but I have had a very definite experience in mind which I had as a member of the legislature, of the City of Chicago coming down continually for little amendments to the Cities and Villages Act, for which there is no reason in the world, and which do not develop until the experience arises in which they need it.

Mr. JOHNSON (Bureau). Have, you, Senator, in mind any specific legislative power that the General Assembly now has under the Constitution which had not been acted upon by the General Assembly? I don't know but what there may be such power so vested in the General Assembly, and if there is and it has not been thus far exercised by the General Assembly, I understand that by your construction of this that that is delegated to the City of Chicago, am I right?

Mr. HULL (Cook). Provided it is a power of local government, properly described as a power of local government.

I wanted to get to the second section to bring out a definite distinction. I have been talking to you about section one, and in section two, which

we now have before us. We have authority to have a charter convention for the purpose of creating a new city charter, and the provisions are fairly clear with reference to the procedure requiring the submission of the question, as to whether a convention shall be called, to the voters of the City of Chicago, and requiring the submission, after a convention has been called and a new charter shall have been drafted, of the new charter itself to the voters of the City of Chicago for approval or rejection, and providing also that the provisions of that charter so far as they relate to the organization of the city, the distribution of power among the officials, and tenure and length of office, shall not be subject to legislative interference. That is the only provision here which exempts the City of Chicago from the paramount power of the legislature, and those exemptions relate only to the political organization of the city. If in the charter there are any additional provisions which relate to substantive matters, to substantive powers, to other things than the ordinary matter of organization and compensation of officials, than the tenure of office, those provisions would be subject to the paramount power of the State through the legislature.

I want that brought out as the distinction between the two sections. There is a paragraph at the end of that second section, concerning the rates of compensation, as well as conditions of appointment and promotion of civil service. We have a large civil service in the City of Chicago and it was the apprehension of some of the members of that service that they would be disturbed in their tenure of office by this power of organization, and it was for the purpose of giving them such assurance as we could give them that that would not be done that we put into this second section a principle at least for the guidance of any charter convention with respect to these provisions but I have no fears whatsoever on that subject. I know they are an organized force of office holders, and have an interest in the question of organization of the city, and it would manifest itself which would be adequate protection against separation from their jobs.

Mr. HAMILL (Cook). I don't know whether I am in order, Mr. Chairman, but it seems to me that we acted rather precipitately on section one. I don't mean to indicate that I am opposed to it, but there is a part of it I think should be discussed for the enlightenment of the Committee of the Whole, and as one who voted "aye" on the question to adopt, I now move to reconsider the vote by which section one was adopted.

Mr. DUNLAP (Champaign). Before—

Mr. HULL (Cook). If it is desired to reconsider it, instead of a motion of that kind we can do it by unanimous consent, take up any provision in that section which you want to consent to, without having put it to a vote again, and if after your discussion you want to reconsider it we can reconsider it.

Mr. HAMILL (Cook). It would seem to me to be wiser to pursue the parliamentary method, and have the vote by which it was adopted reconsidered, and have the section discussed.

(Adopted.)

Mr. DUNLAP (Champaign). Before we take up section one I would like to ask the gentleman from Cook if he concluded his general statement in regard to section one?

Mr. HULL (Cook). I concluded, but if there are any questions you want to ask I will try to answer them.

Mr. HAMILL (Cook). For the purpose of presenting to the Committee of the Whole the question which I think is worthy of consideration, I move there be stricken on section one, beginning on line three the following: "this grant of power shall be liberally construed, and no such power of local government or corporation action shall be presumed to be denied by reason of not being specified in this Constitution or any existing or future law."

It seems to me, Mr. Chairman, of very doubtful wisdom to insert in the draft of our Constitution rules of construction. It is unwise and has been productive of trouble in the past. We may safely leave to the courts the construction of what we write, and we should frame what we desire in

the law. We think we know what it means, and we should do it in as few words as we can possibly use, and we should discuss here what we mean and then say it, and not, it seems to me, lay down rules of construction for the government of courts, when the questions come before them.

Mr. HULL (Cook). I think to strike that out would be to cut out the vitals of that section, because then all you grant them under the first section is what they now have, that is all you practically would be granting them, what they now have by virtue of statutory enactment, because it is subject to future or existing laws.

Mr. HAMILL (Cook). What do you assume that this grants the city that the city has not now?

Mr. HULL (Cook). I stated it cannot be foreseen.

Mr. HAMILL (Cook). We do not want to foresee.

Mr. HULL (Cook). What the emergencies will be that will arise that will compel the City of Chicago to come down here to the legislature for additional grants of power, I only know during the many years since the Cities and Villages Act has been passed the City of Chicago has been coming down here to ask for grants of power and usually of an apparently trifling nature, so far as the legislature was concerned, but yet of considerable importance to the city, and they usually have been granted. Sometimes they were made matters of trade and legislative log-rolling. I don't think anybody can undertake to paint a picture of the particular grant of power that the city may need.

Mr. DEYOUNG (Cook). The theory today of municipal and corporate power is that it must be express, by statutory enactment, and it is those express powers and those necessarily implied to carry out the express powers which are given—in other words the City of Chicago like every other incorporated municipality of the State can find express authority for what it seeks to do.

Mr. HULL (Cook). Precisely.

Mr. DEYOUNG (Cook). Do I understand that section one proposes to reverse the rule, that is except where it is expressly provided—or rather whether it is expressly denied by legislative enactment the City of Chicago shall have under this provision all powers of local self government, that is, it need not point to an express power but just like the State legislature it has all the power of local self-government except where it is expressly and affirmatively denied?

Mr. HULL (Cook). That is a fair statement of it.

Mr. DEYOUNG (Cook). It reverses the present rule?

Mr. HULL (Cook). The rule of construction, yes.

Mr. DEYOUNG (Cook). In other words if the City of Chicago should see fit to tax or license—I will not use the word tax—I will use the word license, as a regulatory measure out of which it seeks to derive revenue, a number of trades and occupations, it would not have to do what it does now seek the express authority for that purpose.

Mr. HULL (Cook). I think that is true.

Mr. DEYOUNG (Cook). In other words it could do it without legislative enactment. Could do what was attempted in the 51st General Assembly, to extend not what I would call the taxing power, but to get within the licensing power of the municipal authority a number of trades and occupations which the general law of the State did not permit. That might come within this provision without legislative authority. In other words to be more specific, in the proposed act, banks and trust companies and a large number of other lines of business were to be brought within the licensing power of the municipality in addition to the regulatory power of the State and nation, as the case might be. That might come strictly within the powers of this provision, without legislative authority?

Mr. HULL (Cook). If it were a fair exercise of the licensing power.

Mr. DEYOUNG (Cook). And a farmer who came from the country might be subject to one set of regulations in the City of Chicago and entirely different regulations in the City of Evanston?

Mr. HULL (Cook). Possibly.

Mr. DEYOUNG (Cook). In Evanston he might sell his produce with those limitations which apply everywhere in Illinois, and in Chicago he would have to follow whatever the City Council regulations might be, some of which might be burdensome to him, isn't that true?

Mr. HULL (Cook). Possibly; but I don't presume that the City Council is going into licensing which would be burdensome to the city.

Mr. DEYOUNG (Cook). Not the city government, but the city authorities.

Mr. HULL (Cook). I assume they are guided by public necessities.

Mr. DEYOUNG (Cook). When it comes to the people of the city we all know what local officers want are two things, more power and more money, isn't that generally true?

Mr. HULL (Cook). I think there is a large amount of truth in it.

Mr. HAMILL (Cook). If the section means, as I understand you to say it does, replying to the questions of the last speaker, would it accomplish it in this wise "except as expressly limited by law the City of Chicago is hereby granted," etc. If you want to change the rule of construction and provide it shall have full and complete power save as expressly limited why don't you say so, "except as expressly limited by law the City of Chicago is hereby granted—"

Mr. HULL (Cook). I would not want to pass offhand on that phraseology, as compared with this phraseology. It is something that ought to be considered.

Mr. HAMILL (Cook). The purpose of my question is to find out what you mean. I wanted to know if you wanted that brought out.

Mr. HULL (Cook). I suppose you are stating substantially the meaning of this proposal.

Mr. HAMILL (Cook). I supposed that that was what you were after.

Mr. HULL (Cook). Yes.

Mr. MILLER (Cook). Referring again to the questions asked by Delegate DeYoung, isn't it true that the committee thought that the last sentence in section one forbade the city to license except as authorized by law, from imposing occupation taxes?

Mr. HULL (Cook). If licensing amounts to taxes, yes.

Mr. MILLER (Cook). In other words if it was clearly a regulatory license for the purpose of raising money to pay for the regulation of that trade and to establish the traffic and nothing else, and not to raise money, then it would fall within the provisions of this section, otherwise it must be granted by the legislature or it does not exist?

Mr. HULL (Cook). The right to tax is left to the law, yes.

Mr. MILLER (Cook). In other words I want to make that clear because my plain understanding, as I recall it, was, there was proposed to the committee to put into this article a provision that the city might levy occupational taxes.

Mr. HULL (Cook). Yes, and that provision was cut out of the article.

Mr. MILLER (Cook). That provision was cut out of the article because as the committee understood it without any such provision except as authorized by the general law of the State, nothing remained except the power to levy and collect such license fees as was necessary for the regulation of any particular traffic, is that your understanding?

Mr. HULL (Cook). Yes, that is my understanding.

Mr. DEYOUNG (Cook). The power to impose license fees is not subject to State law?

Mr. HULL (Cook). Yes.

Mr. DEYOUNG (Cook). That is if it is not expressly denied the power exists to impose license fees on different trades and occupations under this section without enabling legislation?

Mr. HULL (Cook). I am not sure I understand your question.

Mr. DEYOUNG (Cook). I say the committee, as I understand it, sought to make the distinction between the power to license and the power to tax?

Mr. HULL (Cook). Yes, they refuse to put in the licensing provision as a taxing provision in this article.

Mr. DEYOUNG (Cook). The power to license is not included in the last sentence, which is subject to State law; hence the power to license is exempt from the provision outside of the authority of the State to regulate. I will put it this way, the power exists in the municipality unless it is denied by State law?

Mr. HULL (Cook). If it is a purely regulatory measure.

Mr. DEYOUNG (Cook). Precisely, and I would like to ask the gentlemen, both the chairman of the committee and my colleague, to tell me where the power to license ends and the power to tax commences. It has been a very troublesome question, and very often, as I learned from the Supreme Court authorities, the power to tax is clothed in language to license. It is about as difficult to tell where a pig ends and hog begins as to tell where the power to license ends and power to tax begins. Very often the municipal authorities invoke the licensing power where they do not have the power to tax. Unless it is an extremely plain case it is hard to distinguish.

Mr. HULL (Cook). I am sure I cannot tell you offhand.

Mr. MILLER (Cook). If I may express myself, I don't claim to be an expert on that branch of the law, but as I understand the situation it is this, the legislature itself could not lawfully authorize a local government to impose license fees upon any occupation, purely as a license, regulatory license, unless there were some circumstance which distinguished that occupation from others, and pointed to the necessity of bringing that in in some peculiar way other than by the control of other occupations. The license fee under those circumstances must be only such a license fee as would reasonably compensate for the exercise of that peculiar control which the circumstances indicate was necessary or proper. For instance, merely as analogous, we remember, all of us, the case wherein the Supreme Court held to be unconstitutional the imposition of certain fees on estates as a part of the probate fee. The court held that that was improper because it bore relation which the probate court fees must render in connection with that estate. Now in this particular matter the committee, I am sure, as a whole, and perhaps other members are too, but I think I can say as a whole the committee was positively opposed to giving the city the right to levy any occupational tax. That matter was strenuously urged upon the committee as a very prolific means of raising income or revenue, and the committee decided that it did not want any such power as that vested in the City Council of the City of Chicago, that was not vested in the rest of the State. That was the attitude of the committee. We think that is the case here, at least that is my impression that is what this section means here. For instance where the legislature grants the right to license a junk dealer, where it grants the right to license peddlers or any other class of that kind, which the courts hold is a proper subject of license, because they need municipal regulation and inspection, then a license fee on those occupations which bear a proper relation to the cost of that regulation is a proper exercise of the power to license. If it goes further than that then it goes into the realm of taxation. Now if I am wrong on that there are plenty of lawyers in the assembly that can set me right.

Before leaving the subject I would like to say a few words generally in addition to what the chairman of the committee has said in respect to it, these sections 1 and 2. Now the purpose of these sections is to give Chicago and the rest of the cities down State—I mean the members of the convention from down State who were not satisfied about the matter when it was in the committee—the purpose of the committee was to give Chicago full power in relation to purely local matters, to avoid every little while every session, their coming to the legislature to get some more paragraphs added to section 62 of the Cities and Villages Act. That now contains some 98 clauses, and when I first began to practice law in the early days of the Republic there were about one-half or a little more of that number.

Perhaps less, I don't recall the exact number. But there was in the neighborhood of one-half, and representatives of Chicago and other cities come down here from time to time, and now as I remember it there are 98. If we go on as it is the number will eventually be up to 198. Maybe more. In other words, as I understand it, our system or our theory in this State is, it is the purpose and intent that the municipality shall have full powers to regulate matters of local self-government, and whenever a matter of purely local self-government is adopted, it is adopted after a great deal of debate as to the wisdom of it. Of course there will be different views on that matter in the City of Chicago, if it applies only there. It is granted after a discussion not on the question as to whether or not it is a power of local self-government a city ought to have, but whether or not it is a wise thing to exercise it in that case.

Now, here is the situation: In Michigan in 1909 this same provision in substance was put into the Constitution there the same as the proposal here—it was made subject to existing and future general laws—this power of local self-government. In Ohio in the Constitution of 1912 this provision was put in and it was not made subject to the State law. The Constitution there gave to the cities irrevocably powers of self-government and granted to the State all powers not of local self-government. It undertook to make the division, but we of this committee, however, thought that that was going too far, and thought it was unwise for this reason, almost any local power may under certain circumstances become more than regulatory locally, and if it becomes of interest to anybody outside of the municipality where that power is exercised, then of course it is not local, it is State. For instance, just as an example, if the sanitary affairs of one particular municipality became of interest to the municipality next to it, as we can readily see it might become, then that would cease to be purely a local affair and it leads as we thought to more or less confusion to follow the Ohio precedent. But I want to say that, Mr. Chairman and gentlemen, being frequently in Ohio, and rather well acquainted there, having business which takes me there probably two or three times a month, I have taken occasion to inquire, not of college professors, but of business men and lawyers of standing and conservatism, as to whether or not in that State they have yet learned of any real difficulties arising because of the full and wide local self-government which was granted by the Constitution of 1912 to cities without restrictions there, and put in here, or whether they have seen any difficulties, or have yet experienced any difficulties with the charters which under the Ohio Constitution the various cities have adopted. The question was raised here as to the possible lack of uniformity—now I have taken pains naturally to inquire of the men I thought most likely to find fault in those respects, if there were any real faults, and I have not found any, in fact they say they can see no difficulty in that regard whatsoever.

Now the chairman of the committee mentioned certain matters; he mentioned one matter of local self-government; the city comes down here, I believe I got him right, to construct the municipal pier; then wishing thereafter the right to authorize somebody to sell peanuts on the pier they discovered they did not have the right and they had to come down to the legislature again, and that is only one of many, many instances. They wanted the right to locate garages; they did not have that right until the legislature gave it to them, and the legislature gave it to them and the Supreme Court held it was a proper right to be exercised because garages might be a nuisance, the same as a junk pile would be a nuisance, depending on the location.

It was my misfortune to try one of those cases for a garage owner in the Supreme Court, so I have a very vivid recollection of what the Supreme Court found in the matter. There are other things, places of amusement, junk yards, junk shops and many other things where the city has been obliged to come here and ask the right; yet so long as it is purely a matter of local self-government I am unable to see why they should not have that

right to exercise it, but I am unable to ascertain under the very much wider provision in Ohio where that right has done any harm. Here in this article the right of the legislature to step in and wipe out and destroy any power that the city has seen fit to exercise if it should prove unwise is put in there merely as a matter of precaution, personally I cannot see where the necessity of it is likely to at all arise. The history of Ohio for the last eight years indicates that that necessity will not exist, and yet being rather conservative I am much better satisfied to have that left in so that if Chicago should undertake to go into any powers of local self-government which I now cannot foresee as being dangerous or a mistake, that the legislature may have the right to step in and grab it and wipe out that power. Now that is just a little outline of the theory on which the matter was discussed before the committee, and the theory on which I gave my consent to sections 1 and 2, and as I said before on this question of power to license, my belief is that as it stands it is perfectly clear that the city would have no right to license any occupation unless they were peculiarly subject to regulation different from other occupations. In that event the power would exist only to charge such license fees as would approximate the cost of the regulation. If I am wrong in that I would like to be corrected.

Mr. HAMILL (Cook). With the permission of the committee I would like to amend my motion a little bit by striking out "subject to future or existing laws," and insert in place thereof, "except as expressly limited by law," and strike out the second sentence, beginning on line three, "this grant shall be liberally construed, and no such power of local government or corporation action shall be presumed to be denied by reason of not being specified in this Constitution or any existing or future law." So it would then read "except as expressly limited by law the City of Chicago is hereby granted and declared to possess full and complete powers of local self-government and corporate action for all municipal purposes. The city may assess and collect taxes and borrow money for corporate purposes only as authorized by law."

Mr. HULL (Cook). I am not sure that I get the purport of the amendment. Is it the opinion of the gentleman that moves the amendment, that stated in this form the section would mean substantially what it means in this section?

Mr. HAMILL (Cook). In my opinion it would mean substantially what you say it means.

Mr. HULL (Cook). What I say it means, that is what I mean; you are not changing it according to your form, from the substance?

Mr. HAMILL (Cook). No, I am trying to form the exact expression to carry out your intention.

Mr. HULL (Cook). Mr. Chairman, I would hope that the work of the Committee on Phraseology and Style would not be done on the floor of the Committee of the Whole, but would be done in the Committee on Phraseology and Style. If there is a desire to change the substance of the section, or what we are trying to make it mean, that would be to my judgment a fair subject for consideration here, but changes in phraseology and style certainly call for the closest scrutiny in the use of words, and I doubt very much whether that can be given to this section in these general considerations of the subject before the Committee of the Whole; for that reason I would hope that the amendment proposed by the gentleman from Cook, Mr. Hamill, will not prevail.

Mr. HAMILL (Cook). I will say to the gentlemen of the committee that I am not at all insistent on my motion. I wanted to get from the proposer of this article his conception of his meaning. I give fair warning now, when it comes to our committee I will feel at liberty to recommend it back in substantially the form I now suggest, if the rest of the committee concurs with me, if we conclude that that more aptly expresses what the gentleman stated. With that statement I will withdraw my amendment.

CHAIRMAN WILSON. The motion pending the adoption of section one.

Mr. GALE (Knox). In this article the last sentence—the revenue article section seven provides, as adopted by the Committee of the Whole that all municipal corporations shall be vested with authority to levy and collect taxes, but not taxes upon incomes—is that consistent with the principles of taxation fixed in this Constitution? Do you think that this section one being a special article upon Chicago, grants more opportunity to Chicago with reference to the levying of taxes than section seven of the revenue article permits the General Assembly to grant to other cities?

Mr. HULL (Cook). No, I do not think the city gets any power to levy and collect taxes except as authorized by general law.

Mr. GALE (Knox). In view of section seven of the revenue article do you think under this special article here the legislature might authorize the City of Chicago to levy income taxes?

Mr. HULL (Cook). No, I should not say so, no.

Mr. GALE (Knox). You are satisfied it would be controlled by section seven of the revenue article?

Mr. HULL (Cook). Controlled by section seven of the revenue article, yes. But that would have to be operated by general law, is that right?

Mr. GALE (Knox). I think it would have to be operated by general law. My only fear was this, I assumed it to be the wish of this convention, in view of the provisions of the revenue article already adopted, that income taxes should only be collected by state authority, and not by local municipalities, and for that reason I take it is the wording of section seven of the revenue article. Now here is a special charter to Chicago in which that wording of section seven is not repeated, but merely that the city might assess and collect taxes for corporate purposes, only as authorized by law. Now whether it is clear enough that section seven still controls this special article on Chicago is the only question I want to ask.

Mr. HULL (Cook). I simply answer it by saying it was not the intention of the committee to take the City of Chicago out from the operation of the provision of the Constitution with reference to taxes, or out from the provisions of the general act on the subject. This was put in here simply for the purpose of making it clear that the grant of corporate powers given by this section should not include any power of taxation.

Mr. GALE (Knox). Would there be any objection, or is there any need for saying in this section one, a phrase like this “only as authorized by law, not inconsistent with the principles of taxation fixed in this Constitution.”

Mr. HULL (Cook). Wouldn't that be accomplished by the use of the words “general laws,” because all general laws would have to be in conformity with the principles of taxation fixed by the Constitution?

Mr. GALE (Knox). Yes.

Mr. HULL (Cook). All you want is no special law for the City of Chicago with reference to taxation? Is that what you had in mind?

Mr. GALE (Knox). That is what I had in mind, and I assumed the Chicago committee had it in mind also.

Mr. HULL (Cook). I do not think that they had anything else in mind.

Mr. GALE (Knox). If you as chairman of the committee, and the committee, think this is amply guarded I will not make any further suggestion, but if you are not I would like to have the words “general law” inserted there.

Mr. SUTHERLAND (Cook). A number of the citizens of Chicago have told me that they understood that the Constitution was preparing to permit the city to levy and collect an income tax, and I have assured them that that is not the intention, and they have been greatly relieved, and the citizens have been of various walks of life, but they thought that the income tax law should be general throughout the State. I think it would clear the matter up in the minds of the people and let them pass more intelligently on the subject if we clear this up and make it clear.

Mr. HULL (Cook). You mean you would like to put in the words “general law”?

Mr. SUTHERLAND (Cook). It would help.

Mr. HULL (Cook). If you put that in, I as a member of the committee would not object, if the chairman of the revenue committee wants to make that motion I would not object.

Mr. GALE (Knox). I move the word "general" be inserted in article one line seven before the word "law."

Mr. MILLER (Cook). For the guidance of the chairman of the Committee on Phraseology and Style, and his associates on that committee, I wish to say that it is my recollection that this occurred before our committee, and it was proposed to make that last sentence read this way, "the city may not assess and collect taxes or borrow money for corporate purposes except as authorized by law" and that amendment was rejected on the theory that it meant exactly what is said here. It is my recollection further that it was proposed to put in there the word "general" before law, and that was rejected because it was thought that that would mean exactly what the sentence means now, and it was also proposed to put in there "not inconsistent with the general principles of taxation laid down in the Constitution," and that that was rejected also on the theory that it means exactly what it says now. Now if I am in error in that I wish somebody else on the committee would correct me. That is my recollection of these things, that were discussed in the committee, and they were all rejected on the theory that it would mean exactly what it means now, in broader language. I think we may rely on the Committee on Phraseology and Style to make that sentence mean beyond any question—so there cannot be any argument about it—when the Constitution is up for adoption or after it is adopted and before the Supreme Court that this sentence means that the City of Chicago shall have power to levy taxes or borrow money only as authorized by the general law and in accordance with the principles of taxation laid down by the Constitution.

Mr. GALE (Knox). I think I am satisfied with the explanation of the committee, and I will withdraw my motion.

Mr. DUPUY (Cook). I would like to say a few words, and only a few words, in regard to this report. It reverses the whole theory of the relation between the city and the State. I want Chicago to have home rule, in all matters pertaining to local self government. I want every other municipality in the State to have the same thing just as far as it wants to, and every lawyer in this convention knows it has been the theory from time immemorable that the municipality derives its powers from the State and that it has no power except as it can show a warrant for its exercise in the legislature. Either power expressly granted or power necessarily granted in the exercise of the powers granted. That is a well understood, time-honored relation between the State and municipality. I think it is a reasonable thing and I think it is a sound thing as between the State and the municipality. Now if there is some better way to get larger powers into the municipalities concerning those things which are strictly local, and pertain to their home affairs, we should have no hesitancy in granting that efficient and better thing. We all look for progress in the course of time in the administration of government, and it is only reasonable that we should expect it. The thing that troubles me, Mr. Chairman and gentlemen of the convention, is this, that the reversing of that rule and the saying in effect the municipality shall have all powers not denied by the legislature it seems to me is somewhat experimental.

Mr. MILLER (Cook). Powers of local self government.

Mr. DUPUY (Cook). I meant to say all powers of local self government, not denied by some act of legislature, it is entirely reversing our policy heretofore. It has never been the rule anywhere and I am fearful it contains some pitfalls that we do not at this time see. I am not against the general scheme or plan, I am very much in favor of it, in the main. It seems to me quite absurd and I think it is, that such things should exist as Mr. Miller pointed out, that the City of Chicago or any other municipality be obliged to come to the legislature and get authority to sell peanuts

or any other kind of refreshments or merchandise on its municipal piers or any public grounds pertaining to the city. If there be some way, safe and sound, whereby we can invest in the municipalities, the City of Chicago or any other municipality, the means or general power of home rule we certainly ought to do it. There is a situation in our city which needs a remedy, and needs to be cured, and I think we are all in favor of accomplishing that result, but I believe we must consider some of these things as we go along and not overlook the possibility that there may be grave pitfalls and dangers involved in adopting the scheme, to reverse the entire relationship between the State and municipality. I know every man here wants to do the best thing for the municipalities, for his own home city, whatever it may be, but the thing is so full of ramifications and side issues and possibilities, there seems to be possible pitfalls that we must study carefully as we go along. I raise these questions only for your consideration, I am not desiring to express myself unfriendly to this general proposition, but I am not entirely in favor of it.

If the committee can answer these questions to our satisfaction I think we ought to adopt some general plan or scheme of this kind. I don't think, however, that the city should ever be entirely free from the control of the State, that is to say it should have the powers vested in it over which there shall be no other control; it seems to me that would be very doubtful policy, and one highly experimental, and I am sure it would result—

Mr. MILLER (Cook). That is not in here.

Mr. DUPUY (Cook). I am not sure it is, but I am only speaking about it, although I find something in the second section which seems to suggest that. I was on the point of moving to strike out "And no such power of local government or corporate action shall be presumed to be denied by reason of not being specified in this Constitution or any existing or future law."

Mr. HULL (Cook). Do you mean that?

Mr. DUPUY (Cook). I shall not submit that as a motion at this time, but I think we should bear it in mind and consider it at some future time. It may be necessary to eliminate those words.

Mr. MILLER (Cook). I think that the committee is satisfied that the Committee on Phraseology and Style will make exactly the change the chairman suggested, in other words make it read, "except as expressly limited by law," the city of Chicago is granted and entitled to such powers of local self-government and corporate action, and so on. It would be entirely satisfactory to the committee.

Mr. DEYOUNG (Cook). The gentleman from Knox, the chairman of the Committee on Revenue, I think called attention to a matter which may at least have something of substance to it; you will observe the first line reads as follows, "Subject to existing or future laws." I am well aware that the term "law" sometimes includes Constitution. The section concludes with the same term, only as authorized by law. But in the second sentence: "This grant of power shall be liberally construed, and no such power of local government or corporate action shall be presumed to be denied by reason of not being specified in this Constitution or any existing or future law." We have then in the section, taken as a whole, a marked and clear distinction between the word constitution or constitutions and the word law. This is a separate and specific article for Chicago and Cook county. It is with reference to the local conditions here, and it might well be argued by lawyers, and it is certainly not free from doubt, that the city of Chicago would have complete range except when future general assemblies, in addition to existing laws, might limit the exercise of the corporate power and authority for municipal purposes. By no manner of means is the Constitution included in the word "laws," in the opening and concluding sentences of this section, and I think we ought to pause before we give to the city council of any city, however large the population might be, and in the minds of some the greater the population the greater the danger, and it seems to me we ought to go very slow before we say in

the second article of the Constitution the only limitation which the City Council of Chicago shall have is existing laws and future statutes. Notwithstanding the discussion before the Committee on Chicago and Cook County, the mere fact that the word "constitution" is used in one connection a clear distinction made between constitution and laws, and omitted in the other two cases, gives rise at least to my mind of this danger, and we are going on an uncharted sea it seems to me, if we leave it stand as it does stand. I am frank to say that I am unwilling to leave to any city council absolute power, give it absolute authority to a complete sway, limited only by what some legislature might do in the future, especially if you do give to the city council the power to impose taxes and assessments and collect them, limited only by law, and not by the restraint of the Constitution.

Mr. HULL (Cook). I judge that Mr. DeYoung's difficulty is in the fact that the word constitution has not been used in the drafting of the section. The question came up repeatedly with reference to the use of the word Constitution, and it was the judgment of the committee, without question "subject to future or existing laws" covered the Constitution as well as statutory laws. There was no desire whatsoever to take the city out from the restrictions of the law, whether it be constitutional law or statutory law, or legislative law.

Mr. DEYOUNG (Cook). You have made a clear distinction between constitution and law, in the second sentence.

Mr. HULL (Cook). That is with reference to the powers of organization.

Mr. DEYOUNG (Cook). No, I cannot see that. The second sentence in section here, here is a grant of power that is not to be limited, by reason of not being specified or denied. By reason of not being specified in the Constitution, and by reason of any existing law.

Mr. HULL (Cook). The reason for putting in the word "constitution" is to show that it is a grant of power.

Mr. DEYOUNG (Cook). Precisely, the grant of power is complete only as you say limited by future or existing laws.

Mr. HULL (Cook). Yes, would your difficulty be met by the motion of the chairman of the revenue committee, to insert in the last sentence the word "general?"

Mr. DEYOUNG (Cook). I doubt it.

Mr. HULL (Cook). Any general law would have to be subject to the Constitution wouldn't it?

Mr. DEYOUNG (Cook). You run the risk. Sometimes the construction of general law has been rather narrow, and that is the only fear I have. I doubt if general law could be enacted to apply only to Chicago. I am not absolutely sure that that is the case.

Mr. MILLER (Cook). Is it your idea that it might possibly be held by the court when you say the powers exercised by the City of Chicago must be subject to law that they would not have to be subject to the Constitution?

Mr. DEYOUNG (Cook). The argument could certainly be made and both you and I know of arguments less than that that were upheld.

Mr. HAMILL (Cook). I think the suggestion last made proceeds upon the theory that the last sentence is a grant of power, the city may assess and collect taxes and borrow money for corporate purposes. I don't take that as a grant of power but as a limited, that the city may not assess any taxes except as authorized by law. If that is the meaning the city would have to be authorized by law, and an act of the General Assembly is not law unless it conforms to the Constitution.

Mr. HULL (Cook). I think that answers Mr. DeYoung.

Mr. TODD (Peoria). I move that we do now recess until two o'clock. (Whereupon a recess was taken until two o'clock p. m. of the same day.)

2:00 o'clock P. M.

Committee of the Whole met pursuant to recess.

CHAIRMAN WILSON. Mr. Hull, will you take the chair for a moment, please?

Mr. HAMILL (Cook). Mr. Chairman, may I be indulged for a moment while I make an announcement? It seems probable now that this convention will practically have finished its work on first reading by the middle of next week. It is important, therefore, that we have material for second reading. I have called a meeting of the Committee on Phraseology and Style tonight at half past seven to consider three reports that have been prepared by the chairman of the committee for their consideration. It is the policy of our committee that before we submit to the convention our reports we will take them up with the various committees that have reported the articles to the convention, and explain to them the changes we have made, and take their judgment and try to make our reports conform to their wishes. I want, if possible, to have these reports ready for the convention to act upon next week, and to that end it will be necessary to have rather a long session tonight, and to get two or three of the other committees to meet with us.

I want, therefore, if it can be arranged, that the Committee on Miscellaneous Subjects meet with the Committee on Phraseology and Style at nine o'clock, and the Agricultural committee to meet with us at half past nine, to consider the warehouse article, the Miscellaneous committee to consider the article on distribution of power. I would also ask the Educational committee to come in on the educational article if they were here, of course, but the chairman is absent, and I doubt if we can get through more than the two reports tonight.

Mr. WILSON (Cook). Mr. Chairman, as a member of the Committee on Cook county and Chicago, I think I ought to make this statement, that I was in doubt about the phraseology of article one in that I thought it might lead possibly to some trouble when it got here. Several times I asked the question, as our chairman knows, whether he felt the phraseology in the sentence that Mr. Hamill moved we strike out gave the City of Chicago any more powers than it would receive now under the present Constitution. The answer was they thought not.

Now, Mr. Chairman, as we proceed in our deliberations with our report, we find that there are a number of members of this committee who are in doubt, as I say. We find several of the lawyers who do not agree as to the interpretation that that clause might have, and as a member of the committee, I want to say I am sorry the motion that Mr. Hamill made was withdrawn. I would like to see some such motion passed. I thank you.

Mr. TODD (Peoria). Mr. Chairman, as I understood the chairman of the committee to say, that one of his reasons for wanting section one adopted was the people of the City of Chicago had been before the legislature a number of times asking for legislation which would enable that city to do something that the other cities of the State and that city were not then authorized to do, is that correct?

Mr. HULL (Cook). I would not answer that question specifically yes. We wanted to give the city larger powers of local self-government that would make it unnecessary to be continually making application to the legislature for particular enumerated powers in a particular emergency.

Mr. TODD (Peoria). Now, if section one was adopted and the city council of the City of Chicago would undertake to pass ordinances which would become unpopular in the city, it would be necessary, wouldn't it, for the people of Chicago to ask the legislature to put restrictive legislation upon the City of Chicago?

Mr. HULL (Cook). I think if the city council passed ordinances in the city which were unpopular in the city the constituency of those members of the council would compel their repeal by their own action, in their own forum.

Mr. TODD (Peoria). If they did not, it would be necessary to get restrictive legislation from the legislature?

Mr. HULL (Cook). I would have just as much confidence in the city council responding to the needs of the City of Chicago in respect to any such legislation as I would to expect to get it from the State legislature. I would have more.

Mr. TODD (Peoria). If you did not get it from the City of Chicago, you would have to ask it from the legislature, if there was any restriction, isn't that true?

Mr. HULL (Cook). You assume a hypothetical case which I do not conceive.

Mr. TODD (Peoria). Well, I think it would be true, and if restrictive legislation was asked for and passed by the legislature, under section 6 of this article it would be necessary to make this restrictive legislation apply to other cities than the City of Chicago, or pass it for the City of Chicago alone and have it approved by referendum vote in Chicago. I want to call your attention to that so that you may know that this does affect down State to that extent, that the restrictions placed upon the city council of Chicago would have to be placed upon at least one other city in the State of Illinois, and perhaps upon all the cities by general law, unless it was placed for Chicago alone and approved by the people of Chicago.

Mr. HULL (Cook). What have you in mind when you speak of the council legislating in a way that requires the city to come here to protect itself from the council?

Mr. TODD (Peoria). I have in mind that people in the City of Chicago will probably want protection from the city council through the legislature.

Mr. HULL (Cook). Well, to what specific instance do you refer, or have you in mind?

Mr. TODD (Peoria). I haven't any specific instance. I have the general proposition in mind. I am not opposed to this measure. I am simply pointing out the way in which it would apply to the rest of the State.

Mr. MILLER (Cook). Mr. Todd, is it your idea that the legislature ought to have the power to place restrictive legislation on Chicago that does not apply to any other city in the State?

Mr. TODD (Peoria). I did not say that, but I said that under the present Constitution we have supplied Chicago with special enabling legislation. Hereafter it would be necessary to make restrictive legislation if they wanted relief from the legislature, and make it apply to the entire State.

Mr. MILLER (Cook). But what I mean is, do you apprehend that it would be desirable in the future for the legislature to place restrictive legislation on Chicago that does not apply to the balance of the State or any other city?

Mr. TODD (Peoria). I could conceive of the people of Chicago asking for such legislation, yes, sir.

Mr. MILLER (Cook). What particular power of local self-government have you in mind that ought not to be exercised by any municipality?

Mr. TODD (Peoria). I haven't any.

Mr. MILLER (Cook). It seems to me that that is the test that ought to govern us, just as Mr. DeYoung raised a question as to a certain thing quite legitimate.

Mr. DUPUY (Cook). Mr. Miller, would the matter of imposing a three cent street car fare be a matter of local regulation in Chicago?

Mr. MILLER (Cook). I don't see how that could be done under this article or any other, because it cannot be furnished to them.

Mr. DUPUY (Cook). I was not referring to the physical or financial features of it, but to the legislative power. Would it be possible without any legislative interference on the part of the General Assembly for the City of Chicago to pass an ordinance providing for a three cent fare, and so far as possible put it into effect, without any control from the General Assembly?

Mr. MILLER(Cook). That is to say, would it be possible for the city council to fix any rate of fare, three, five or eight? That, of course, is a power that the city council can have any time under general law at the present time. The general law can give to the municipalities the right to fix rates, or they can turn that over to a State commission at the present time.

Mr. HULL (Cook). Mr. Chairman, I just want to say one word in response to Mr. Todd. So far as I can make out, his questions means this, that we who are not residents of the City of Chicago want the power through the legislature to do something to you people in the City of Chicago that we do not want to do to the rest of the State, or to any other city. He puts that under the form of protecting citizens of the City of Chicago from its own common council. I think I have stated that I have just as much confidence in the protection which the citizens would get from the common council as I have the confidence that they would get protection from the State legislature.

There is another aspect to that proposition. Cities of some of the eastern states have been subjected to what has been known as ripper legislation, the intrusion of state legislation into domestic affairs just for the sake of serving particular party purposes of one kind or another, and the provision to which he calls attention in section 6 is for the protection of the city from ripper legislation. This, of course, is apart from the subject matter of section one, which is before the Committee of the Whole.

Mr. TODD (Peoria). Mr. Chairman, may I ask another question? You think that if these sections 1, 2 and 6 were adopted that the City of Chicago would then be protected against ripper legislation or special legislation against the city, do you?

Mr. HULL (Cook). Except with the consent of the City of Chicago. You can pass all general legislation with reference to the exercise of the police power which would subject the citizens of Chicago just as it would subject the citizens of other cities to its provisions.

Mr. KERRICK (McLean). Do you know of any instances where Chicago has failed to get relief?

Mr. HULL (Cook). Yes, I have known of instances where it has taken two sessions to get the bill through, and ultimately they got the bill through and they took up a lot of time in the legislature with a lot of affairs that a lot of you men from the country would say, "If you only would keep them out of here, we could attend to State business."

Mr. KERRICK (McLean). I know it takes time, but if you always obtain relief, why are you so careful to tie the hands of the legislature in those matters?

Mr. HULL (Cook). We have not tied the hands of the legislature from exercising its proper police power in any respect.

Mr. KERRICK (McLean). You have provided there unusual means.

Mr. HULL (Cook). Subject to existing law or future laws the city has the power.

Mr. KERRICK (McLean). Subject to the limitations of powers, something that I do not find in any constitution that I have ever read yet, that there could be a special channel through which provisions relating to Chicago shall be construed by the highest judicial body of the land. I confess I don't know just where this thing is driving to. It seems to be the state of mind that even the gentlemen from Chicago find themselves. I think Chicago should be willing to submit all requests for needed legislation to action of the legislature. The State's rights are involved here, of course. It is apparent that even the keenest minds in this convention are unable at this time to comprehend the scope and the possible situation which may arise and have to be solved in side of the language contained in section one, and questions that concern more closely the State at large than they do Chicago, and questions that we have had no suggestion of any hardship that would be placed upon Chicago, other than the somewhat tedious process at times, but which never has failed of success, to take care of certain

difficulties as they arise. Chicago, in my opinion, is in far less danger of being inconvenienced by clarifying this section one by striking out all of those limitations with reference to construction, and the qualifications as to certain things which will be presumed. There is no danger of the State at large refusing to do anything and everything that can consistently and reasonably be done to help Chicago in the management of its own affairs in so far as they do not operate to the detriment of the people outside of Chicago.

Mr. HULL (Cook). Mr. Chairman, just one word in answer to Senator Kerrick. He expresses himself as feeling that this section is a novel thing. It is not a novel thing. Other cities in other states have been given powers of local self-government, just as is provided for in here, and in fact with a larger grant of powers than is given here, and Mr. Miller cited for the instruction of the members of this committee the experience of Ohio where they do not reserve the power to the State as they do here, but legislation upon matters of general concern and general interest.

Mr. KERRICK (McLean). May I ask another question? Reading from section 1, "subject to existing or future laws the City of Chicago is hereby granted and declared to possess full and complete power of local self-government and corporate action for all municipal purposes." Have you any reason to apprehend anything that in any wise interferes with Chicago exercising in the fullest measure what the courts have defined clearly in many instances to be full and complete powers of local self-government and corporate action for all municipal purposes?

Mr. HULL (Cook). Yes, I do, because the ordinary rules of construction with reference to an enumeration of powers is that those powers not specifically enumerated are denied, and when you say subject to existing or future laws that the city shall have these powers, you say practically they shall have no other powers than the powers in the existing laws or future laws passed by the legislature. In other words, you negative the question of powers of local government by the Constitution, and leave them simply with the powers they have under the statute.

Mr. KERRICK (McLean). I could undertake to say that the court would describe this not as a limitation of municipal powers strictly, but as a provision that would prevent and would be used only to prevent the court from itself defining what were municipal powers, rather than letting the court of last resort define what such powers include.

Mr. HULL (Cook). Why, the court of last resort necessarily is the judge as to what are municipal powers. Now, I want to just explain to you the reason why it has seemed to me a much more reasonable way of granting corporate powers than the provision which is inserted in the Ohio constitution, where they undertake to say that all municipal powers are granted exclusively to the city, and all powers relating to State matters are given exclusively to the State, and the question comes up continually in courts, suppose a local matter comes up, "Is this local municipal power or is it State power in which the State is interested and interested only," and every time a question of that kind gets to the court, the court is under this temptation of saying, "Why, this, if we make it a local power is forever taken from the State as a proper exercise of power, and the legislature can thereafter never legislate to deny or define within narrow limitations the particular exercise of power." Yet Mr. Miller says they are operating there fairly successfully.

It seems to me that it was better to grant these powers to the city and leave it open at all times when the city is exercising any particular power as a local power, to have the question raised in the court, "Is this a local power or is it a State power?" and the court can always limit it then in accordance with proper rules of construction with reference to what are local powers and what are State powers.

Mr. KERRICK (McLean). Wouldn't this language as it now is make the Chicago city council the judge of what were municipal powers properly speaking, rather than the Supreme Court, the Supreme Court being limited

in the field that it can travel over in arriving at the construction to be placed upon an act, as to whether or not it is a municipal act proper?

Mr. HULL (Cook). No, it would not. Ultimately it all goes back to the Supreme Court.

Mr. KERRICK (McLean). And if that be so, which tribunal would that court likely in the long run arrive at on this discussion about those matters, the interested tribunal of the City of Chicago or the Supreme Court of the State?

Mr. HULL (Cook). The Supreme Court of the State can never be denied of its power to determine whether the city is operating within the grant.

Mr. KERRICK (McLean). You are aware as a lawyer, of course, that the language "shall be liberally construed" catches a good many things?

Mr. HULL (Cook). Yes.

Mr. KERRICK (McLean). This is an undefinable thing in itself, isn't it? The court can always say, no matter how much it stretches the thing, that the provision that the courts shall construe, such provisions as are before it, so liberally, places no limit practically upon them?

Mr. HULL (Cook). I will have to repeat what I said before, that the first section says "subject to existing law or future laws the city shall have these certain powers." Now, the existing laws are the Cities and Villages Act, and certain other acts, and by the rules of construction which are applied to those specific grants of power, the only powers that the city has are the delegations of powers in those particular laws, so that unless you put those in, that is, "the powers shall be liberally construed," this section would grant to the city absolutely nothing except the powers that it now has.

Mr. MILLER (Cook). Or other similar words, as suggested by Mr. Hamill.

Mr. HULL (Cook). Yes.

Mr. MILLER (Cook). And if those words are put in as suggested by Mr. Hamill this whole sentence objected to by Mr. Kerrick can go out?

Mr. HULL (Cook). Very likely.

Mr. LINDLY (Bond). Why not amend that by putting them in now?

Mr. HULL (Cook). The only reason that I am reluctant to accept his amendment is that some of these phrases ought to be turned over very carefully and considered very carefully just where they lead, and if the phrase which is suggested by Mr. Hamill is on full consideration expressing exactly the meaning which we are attempting to cover in this section, I certainly would not object to it.

Mr. MILLER (Cook). Mr. Chairman, lest there be any misunderstanding about what this means, or what the Committee on Phraseology and Style will do about it, I move, as Mr. Hamill moved, to substitute for the first six words of that section the following, "except as expressly limited by law," and then strike out the sentence beginning, "this grant of power," and the section will then read: "Except as expressly limited by law, the City of Chicago is hereby granted and declared to possess full and complete powers of local self-government and corporate action for all municipal purposes. The city may assess and collect taxes and borrow money for corporate purposes only as authorized by law."

Mr. KERRICK (McLean). That is very satisfactory to me.

Mr. MILLER (Cook). Now, there cannot be any question whatever about what it means, and the matter is entirely clear, and if we are going to make any progress, if we are going to have anything toward local self-government, we have got to start here. It has been tried successfully for years in several other States, and the most conservative people in the State have no objection to it, so far as I have been able to ascertain.

(Amendment carried.)

(Section carried.)

Mr. HULL (Cook). I believe section 2 has been read before. This is the section which provides for the charter convention, which gives the legislative authority of the City of Chicago the right to have a charter conven-

tion, which authorizes such convention to proceed to draft a new charter of the city, which provides that such charter shall be submitted to the voters of the City of Chicago, and which also provides that so far as the charter adopted provides an organization or distribution of powers of the city among officials or has provisions respecting the tenure and compensation of those officials, that charter shall not be subject to State law. That is the full scope of the section, and unless there is occasion for discussing it, I move its adoption.

Mr. RINAKER (Macoupin). Mr. Chairman, I would just like to ask a question. With section 1 amended as now, why is there any necessity whatever for any part of section 2? Isn't it a fact that all of section 2 is simply a restriction upon the rights of Chicago to exercise the power which is granted in section 1?

Mr. HULL (Cook). No. The powers that are covered in section 1 are intended to be general corporate powers to do for the citizens of Chicago what is necessary for their welfare. The right to have a charter convention, and all the provisions for the submission of the charter convention can be covered by all the provisions of section 1 without section 2. There is this further reason, that we do not want the organization which has been created for the city for its government out of the charter convention to be a matter of State concern to be interfered with by State legislation, as I have spoken of in connection with the City of New York.

Mr. RINAKER (Macoupin). Yes, but you do not quite catch the view that occurs to me from reading the section in connection with what has been granted by section 1, and it still seems to me that all of section 2 is a limitation of the right of Chicago to exercise the powers given in section 1.

Mr. HULL (Cook). I cannot get your question, because I do not think the power to have a charter convention is covered by the provisions of section 1.

Mr. RINAKER (Macoupin). Well, if you have full and complete powers of local self-government and corporate action for all municipal purposes, does not that include all of the means that may be necessary to exercise those powers?

Mr. HULL (Cook). Is there any objection to putting in the provision to show that that power is given to the City of Chicago?

Mr. RINAKER (Macoupin). I would think there would be objection in this, because in that section you are limiting the very thing that you asked to be given you, and it seems to me that with the powers that are given you in section 1, you should not ask at the same time to be limited in the method of exercising those powers.

Mr. FIFER (McLean). Mr. Chairman, I agree with the delegate from Macoupin, that the second section should go out entirely. Now, Senator, isn't it a rule of general construction when a power is granted in a Constitution to do a certain thing you grant with that power all the means to carry out the power or right that is granted? It is said that Chief Justice Marshall wrote the implied powers of the Constitution in between the lines.

Mr. HULL (Cook). I did not suppose that members from outside of the City of Chicago objected to our imposing limitations on ourselves.

Mr. RINAKER (Macoupin). We want to help you make a good Constitution.

Mr. HULL (Cook). We feel there is a very considerable question as to whether the powers under section 2 would carry the powers to hold a charter convention and provide for the referendum on the charter after it is adopted, and protect the community in the manner in which the charter was adopted.

Mr. KERRICK (McLean). I am not in agreement with my colleague exactly about this. It seems to me that there are a number of things in section 2 which are very appropriately in there, that would be very desirable, and a submission of these questions to a vote of these people. They may be implied, but it is just as well to have it defined here.

Mr. DUPUY (Cook). Mr. Chairman, before the question is put I wish to offer an amendment to strike out lines 12 to 17, and I do that for this reason: I understand that the import of those lines is to make certain actions of the City Council of Chicago superior to and controlling over State legislation.

I do not think that is at all necessary. I think it is highly undesirable, if I am right in my construction of it. Now, we have heard that the city has usually gotten what it wanted when it came to the legislature. We want to be saved the necessity and trouble of coming down here to get minor matters, and I am very heartily in accord with that proposition and that view of it, but I am not willing to vote for a charter in behalf of the City of Chicago or any other municipality in the State of Illinois that will make the action taken by the city council independent of all State control. The legislature is the legislative power of the State of Illinois.

Now, I want to see this put in such form, if we can put it there, and I think we can, that within the sphere of local self-government in Chicago, that the city council shall have very large and ample powers, complete powers for all purposes of local self-government, but subject in the final resort to the control of the State legislature. I do not believe that any municipality should be authorized to pass laws or enact ordinances that cannot be reviewed by the general legislative power of the State. I do not think the State is ever going to interfere with out local matters so long as they are wisely and temperately administered, but it is entirely conceivable that the city council might pass some laws that would be to many of the people, if not to the majority, highly objectionable, and I believe that the same legislative power that controls in all State matters should have the right in such cases, if not in the first instance, then as a final resort to pass laws that would correct that evil if it came about. The point I make is that there should be nothing contained, as I conceive there is in these lines 12 to 17, which would place any municipal action above the laws of the State of Illinois that might be passed with a view of meeting such situations as might arise. We do not need that in here at all, in my opinion. It has been said here over and over again that we generally got what we wanted when we came down here, from the legislature.

It is a very plain proposition to me, complete local self-government vested in the city council of the City of Chicago, but not free from supervision on the part of the legislative power of the State. I therefore move that lines 12 to 17 be eliminated.

Mr. HULL (Cook). Mr. Chairman, I don't think the thing is clear to Delegate Dupuy. The provisions in that paragraph from line 12 to line 17, which take the charter out from under the State laws, apply only to the organization of the city government, to the distribution of powers among its officials, and to the tenure in office and compensation of officials. Any substantive power that would be exercised by the city would under the provisions of section 1 be subject to State law. It was simply felt that the power to make a charter should be free from State supervision, the power to make simply that portion of the charter which defines its organization, whether it should be a commission form of government or a form of government that has a mayor and a common council or some other form of government, that the organic provisions of it, that which has to do with the distribution of power, the size of the council, whether we have a council or not, or whether we have a commission, shall be within the power of the charter convention and not subject to politics in the State legislature, and that is one of the essences of home rule, to make their own charter.

In the State of California, as I understand, they have a constitutional provision which permits every city to make its charter, and they do make such charters in California quite independently of the State government, and I have not heard that it has been a source of any trouble. In Ohio they have the same right to make their own charters, and there they are taken out of the sphere of State action, not only the organization of the

city government, but the exercise of other powers. This seemed a very modest request to make in behalf of the city, and I do not believe that it ought to be refused. Therefore, I do not believe that Mr. Dupuy's amendment ought to prevail.

Mr. MILLER (Cook). Mr. Chairman, may I just say this: I think perhaps that Judge Dupuy does not fully understand that if those lines were taken out, the whole section would go. The charter is merely the form of the local government, that is all, not the substance, not the substantive powers, not the powers they shall exercise. At the present time Chicago is under a general law or under a law which applies to only cities over a certain size. If those five lines came out, Chicago possibly could not have any charter of its own, it is gone, that is all. It takes out every line and every word of the whole section, because when those are out, then the Chicago charter has got to correspond with the general State law.

Now, let me call Judge Dupuy's attention to one thing more. The legislature has the right under this article to pass laws which apply only to Chicago, with Chicago's consent. Therefore, a law could be passed applicable only to Chicago if Chicago was doing some unheard of thing which we, none of us, now can think just what it might be, and under the provisions of this proposal or article, it would go and be valid if approved by the voters of Chicago.

Mr. LINDLY (Bond). Would this repeal all of the laws that are now on the statute book applicable to Chicago only?

Mr. MILLER (Cook). Oh, no. It would repeal nothing at all.

Mr. LINDLY (Bond). There are laws on the statute book like in regard to warehouse receipts, applicable only to cities of that character. That would not affect that at all, would it?

Mr. MILLER (Cook). The future laws that are passed by the legislature, which can apply to Chicago and no other city, must have the consent of Chicago.

Mr. HULL (Cook). Future laws?

Mr. MILLER (Cook). Yes.

Mr. HULL (Cook). But it does not affect any existing law.

Mr. MILLER (Cook). No. Now, let me say this about this provision about the frame. In Ohio, I have referred to that before, but their municipal charter provisions are not nearly as old as those of some other states, Michigan and quite a number of others, but they have been in existence for eight years, and there are a large number of cities there that have adopted their own charters, and, of course, there the provision, as I have explained, is very much broader than it is here. The State has no right to interfere in any local matter, whether it is a matter of form or a matter of the powers, and I cannot discover any dissatisfaction there or any evil effects. I made that statement here some time last spring before our adjournment, and I had taken occasion before that time to make inquiry not in one but in several sections of the State where they have these local charters, and I have pursued the same inquiry since. I cannot find any dissatisfaction of any kind with that provision. There are provisions of their constitution which they do not like, but nothing relating to local self-government, as I can find.

Mr. JARMAN (Schuyler). Mr. Chairman, having given this subject some attention in the committee on municipal government and with the committee on Cook county, and having studied somewhat the constitutional provisions in other states on this subject, there can be no object in giving any city home rule without this section, and this section, as I understand it, only gives the City of Chicago the power to establish its framework of government, the machinery with which to carry into effect its legislative powers.

Mr. RINAKER (Macoupin). Why do you restrict the city in the form of its framework to action through a convention to be called after a vote? Why ought not the city try the experiment of preparing a charter by action of its city council, for instance?

Mr. JARMAN (Schuyler). Simply to protect the city in the referendum, that is all. The city council may form a charter that the people did not want.

Mr. RINAKER (Macoupin). Then you are giving the city not free and unrestricted home rule, but you are giving them a restrictive home rule?

Mr. JARMAN (Schuyler). You are giving the people unrestricted home rule, but not giving the city council unrestricted home rule, that is the difference.

Mr. RINAKER (Macoupin). If the city elects a council that repeals the charter that is adopted, then they have ultimately the control of the matter anyhow, and can you not press the city to submit to a referendum without restricting it in the grant?

Mr. JARMAN (Schuyler). Not at all. The city council can not repeal the charter. It can only be repealed or amended by a referendum, and it can only be added to or taken from by a referendum, and the object of this provision is to take away from the city council the absolute power with reference to the framework of the city government.

Now then, in this section it is provided that this charter as adopted shall prevail over the laws of the State in conflict therewith. Now, the object of that, as I understand, is not to put the city in the position of establishing a framework of government, a charter, and then have the legislature change simply that framework. That would be destructive all the time, there would not be any object attained, there would not be any system of government established because it was always in abeyance or in danger. And there is no municipal provision in any constitution or in any statute on home rule that does not give the power to the city to form a charter, and uninfluenced and not interfered with by the legislature.

Now, this principle is progressing greatly in this country, not only with reference to cities, but in some of the states the counties have been given home rule and are now in different states of this country forming home rule charters for the government of municipalities. There is one part of this section, though, that I would like to ask its chairman what its particular meaning or construction is. That is one line 8, "The election laws of the State and the powers and duties existing thereunder may by the legislative authority of the city or by the convention be made available for the purposes of the charter."

Mr. HULL (Cook). Mr. Chairman, when it comes to the submission of the charter to the voters, or when it comes to the election of delegates to a charter convention, the election laws of the State are applied to those elections as far as it is possible to make them apply. There was some question in the minds of the committee as to how far they could be made applicable, and in order to cover that question, the last sentence in line 11 was inserted, "The General Assembly may enact further election laws in aid of this section." The section contemplates the submission of the question to the voters, "Do you want a new charter?" It contemplates afterwards after they have favorably acted upon any such submission the calling of a charter convention with definite provisions indicating the number of delegates, and from what territory they shall be elected, and fixing a time for the holding of the election. It contemplates further after the convention shall have had its session, a submission of the results to the voters of the city.

Now, in all those elections the committee, in order to have the present election machinery usable if it is possible to make it so, by a sentence of this kind, and if after the most careful consideration of the particular provisions first of the resolution submitting the question, and afterwards of the charter that might be framed, it was found that the election laws in force at the time were for some reason not adequate to a fair submission of the question, it would be possible to appeal to the General Assembly to provide election laws for that purpose.

Mr. JARMAN (Schuyler). Would it not be possible to make applicable to those elections the general election laws of the State?

Mr. HULL (Cook). We hoped it would, but there are many complicated questions in respect to election laws, and we did not have the wisdom of the election officials and those who have had experience with the election laws in our committee, and did not assume that we could anticipate all the questions which might come up.

Mr. JARMAN (Schuyler). Would this sentence permit the city council to abrogate, for instance, the Australian system of voting, or the system of conducting elections provided for by the statute, together with its laws with reference to fraud, and so forth?

Mr. HULL (Cook). Does your question respect propriety in the use of the first word "may" here instead of "shall"?

Mr. JARMAN (Schuyler). "The election laws of the State and the powers and duties existing thereunder may by legislation authorize the city."

Mr. HULL (Cook). You raise the question as to whether the word "may" permits the officials of the city to disregard the provisions of the election law?

Mr. JARMAN (Schuyler). Yes, all of them.

Mr. HULL (Cook). If the substitution of the word "shall" will help at all, I would be perfectly willing. It was not contemplated that any possible submission could be made that would have a chance of acceptance, that did not follow at least all the safeguards of the present election laws.

Mr. JARMAN (Schuyler). That would not obviate the trouble. The point is, the city charter or city government ought not to be permitted to abrogate the general election laws of the State, because they are a matter of State concern.

Mr. HULL (Cook). I do not think it contemplated disregarding the election laws at all.

Mr. DUPUY (Cook). I will ask to withdraw the motion I made. I am not at all convinced by the argument in opposition. I do not think it proper or right that any particular section of the State should be supreme in regard to matters pertaining to legislation, even though primarily matters of home rule. On the other hand, I am in favor of this matter as it stands, subject only to that criticism. I would be very glad indeed to see substantially what is here proposed put into effect. You all know that the usual charter convention of a city is the State legislature. They provide what the charter of the city shall be. In Illinois since 1872 it has been the General Incorporation Act of Cities and Villages. That defines the power and limits the activities of municipal corporations. It is conceivable that some better plan might be found. A better plan might be to leave the matter of making the charter to the local municipalities. That is what is proposed here. I have no particular objection to that. I am not sure that it is a step in the right direction, but I am willing to accept it as such, but to go one step further, and amend that, and say that the action of the local charter of the local charter-forming municipality should be supreme over the laws of the State in regard to any matter pertaining to that organization, I do not believe in. I do not think it is a step in the right direction, and yet that is what you are doing here, subject to the limitations called to my attention, which I am frank to say I had not observed as carefully as I have since they were pointed out. These matters which the city shall have supreme control of relate to the organization of the city government, the distribution of powers among its official agencies, and the tenure and compensation of its officials.

Of course, if it is held strictly to that, I do not see very much reason for State interference, and I am assuming that we will go along and do all these things just as we have provided for, without being interfered with by the General Assembly at all. I cannot conceive of any good reason why the General Assembly should have a purpose or disposition or inclination to interfere with the affairs of a municipality, but it is something rather novel to me to say that any particular community may make laws—for such they are—that are in conflict with the laws of the State of Illinois. One speaker asked to point out the reason for that. The reason is that no par-

ticular section of the State should in effect even in regard to its local affairs secede wholly from the authority of the State, and that is what it amounts to, so far as these particular specified things are concerned. I doubt whether it is a step in the right direction. At the same time I am embarrassed in trying to talk about this because I was not with the committee, and they have had a great deal of discussion and consideration there; and I respect the gentlemen of that committee as men of the finest purpose, desiring to do the best thing, and I respect their judgment; and it seems that I ought not perhaps to interpose objections here that have occurred to me to what they have arrived at, just from a casual reading of this report. We owe something to our committees, who have worked long and faithfully on these matters, and while I am not convinced, and I am protesting against placing this above the power of the General Assembly to enact any law in relation thereto, yet if our committee are of that opinion, and such is the view of the Chicago delegates, I am not going to stand in the way of it.

Mr. MILLER (Cook). I do not think I quite clearly explained why those five lines would destroy the section. It is because we now have general State laws which relate to the organization, the framework, of all municipalities in the State. Therefore, there could not be any charter in conflict with the general State laws, and unless those lines are put in, any charter that we undertake to frame would fall at once, as soon as it was made, because it would be in conflict with the State law, which provides a certain kind of city and village government.

Mr. DEYOUNG (Cook). May I ask the chairman of the committee: If I understand it, your interpretation of the first phrase in section 1, "future laws," was that it included the Constitution?

Mr. HULL (Cook). Yes, but you probably were not here when the amendment was adopted.

Mr. DEYOUNG (Cook). I know about that. Also in the amendment, as limited by law, your interpretation is that the words "by law" include the Constitution?

Mr. HULL (Cook). Yes.

Mr. DEYOUNG (Cook). And also the words "by law" at the end of the section?

Mr. HULL (Cook). Yes.

Mr. DEYOUNG (Cook). Let me turn your attention to line 16 of section 2. Do you mean by that that this charter provision shall supersede the Constitution of the State?

Mr. HULL (Cook). There is no provision in the Constitution with reference to city organization, except what we have put here.

Mr. DEYOUNG (Cook). But there may be. For instance, there may be with reference to municipal officers, that their salaries shall not be increased or decreased during term of office. You can hardly say the term "law" in one section includes the Constitution, and excludes it in another.

Mr. HULL (Cook). Specific provisions will always qualify a general provision.

Mr. DEYOUNG (Cook). That is exactly why "laws" may include the Constitution, and then you have the situation, rather unusual to say the least, of having a city ordinance supersede the State Constitution.

Mr. HULL (Cook). Well, the city ordinance is passed in pursuance of a charter, and it has to do exclusively with the organization.

Mr. DEYOUNG (Cook). And with these other things.

Mr. HULL (Cook). The distribution of power, tenure and compensation of officials.

Mr. DEYOUNG (Cook). Now, do you assume absolutely, as a matter of fact, that some of the limitations that are put in the Constitution are necessarily to be put in by this charter convention? Do you think that is safe? These are not only provisions of the charter, but ordinances passed by the city council, and the ordinances may absolutely supersede. If the word

"laws" in line 16 includes the Constitution, we have the situation of having an ordinance passed by the city council absolutely without any limitation.

Mr. HULL (Cook). Well, I do not object at all to your making this that it shall not be in conflict with any legislative enactment, any statute, making it specific there.

Mr. DEYOUNG (Cook). In line 16?

Mr. HULL (Cook). Yes.

Mr. DEYOUNG (Cook). Then lines 12 to 17, as contended by Judge Dupuy, should go out if they are to be subject to the State law, because they are clearly superfluous.

Mr. HULL (Cook). No.

Mr. MILLER (Cook). You are not talking about the same thing.

Mr. DEYOUNG (Cook). I am afraid that under your interpretation of the word "law" or "laws" in section 1, which you say includes the Constitution, a like interpretation might be given to the word "laws" in line 16 to include the Constitution. Then we would have an ordinance that may and does supersede the Constitution in cases where they come into conflict.

Mr. HULL (Cook). Suppose that you suggest a case?

Mr. DEYOUNG (Cook). Experience suggests a great many, although a man's imagination, however flighty, could not conjure up all of the things that might occur. I am not altogether convinced by my colleague that the elimination of lines 12 to 17 defeats the rest of section 2, because certainly if you let the rest stand, it must answer some purpose, and you give the legislative power to the city to call a convention to frame a charter. Here is a specific provision. That would hardly be subject to the statutes of the State.

Mr. MILLER (Cook). Why not?

Mr. DEYOUNG (Cook). What is the purpose of the rest of it? You have provided in section 1 of the Constitution as it now stands, "except as limited." Does that mean a positive prohibition or a limitation by an affirmative act such as we have now?

Mr. MILLER (Cook). It seems to me quite plain that there is no express provision in section 2 that the charter to be framed may differ with the State law, and unless there is such express provision we could not have any special charter. I cannot get away from that reasoning.

Mr. HULL (Cook). I think that is the effective answer, that if it has got to be subject to the law, present laws with reference to the organization of cities, and not create an exception, the charter could not vary from any existing laws.

Mr. DEYOUNG (Cook). The gentleman did not catch my question. It does not follow by any manner of means that the existing law providing for the incorporation of cities and villages made the express affirmative provision that even in the general act it shall be held to be a limitation within the words "except as expressly limited by law."

Mr. MILLER (Cook). Why not?

Mr. DEYOUNG (Cook). I fail to see it. You have here an affirmative provision with respect to a particular subject or a particular municipality.

Mr. MILLER (Cook). Do you say that "except as expressly limited by law," may be held to mean only future laws?

Mr. DEYOUNG (Cook). Not necessarily. But it can well be that this affirmative provision in the Constitution of section 2, authorizing the framing of a charter, is not limited by existing express affirmative statutory enactments.

Mr. MILLER (Cook). Well, where it says in section 1 that the laws shall prevail over the local ordinances, or actions of the city, and there is no express limitation in section 2, and no express power to override them, I do not know how in the world you are going to make any charter which conflicts with the State laws.

Mr. DEYOUNG (Cook). Because those supporting sections 1 and 2 have called attention to the fact that the limitation in section 1 has reference to the powers of local self-government, and not to the matter of organization, with which section 2 is concerned.

Mr. MILLER (Cook). Section 2 is not concerned solely with powers of organization.

Mr. DEYOUNG (Cook). Not altogether, but the lines which we are discussing now do have reference to organization, and not to the exercise of the powers themselves.

Mr. MILLER (Cook). Exactly, and if it were not for these things, the organization as well as the other powers would be subjected to State laws.

Mr. HULL (Cook). Precisely. It applies solely to general corporate powers, because there is provision in the succeeding sections that takes out the laws that relate to the organization of government, distribution of power and tenure and compensation of officers.

Mr. DEYOUNG (Cook). Then evidently we are coming to a common ground, that the subject matter of sections 1 and 2 is not the same. That the Constitution of the State shall be subject to a city ordinance under line 16?

Mr. HULL (Cook). The provisions in lines 12 to 17 deal with the exercise of power with reference to the organization of the city—whether it shall be the commission form or council form of government—and the tenure of its officials, and their compensation, and takes that out from under the State law, yes.

Mr. DEYOUNG (Cook). Do you include, then, the Constitution of the State in the words "State law," yes or no?

Mr. HULL (Cook). I would not.

Mr. DEYOUNG (Cook). Then you have one interpretation from the word "law" or "laws" in section 1, and another in section 2. It is merely a matter of construction.

Mr. SHANAHAN (Cook). There seems to be a division as to what shall prevail over the laws of the State, and what shall not be in conflict therewith. In the last two lines it says, "in other matters the charter or ordinances passed thereunder shall not be in conflict with the State laws," and in the first line it says that they shall prevail over the laws of the State.

Mr. HULL (Cook). It is perfectly conceivable that a charter will have in its provisions other provisions than matters of distribution of power, tenure of office and compensation of officials. If the charter has in its provisions other substantive matter than those enumerated, those other provisions will necessarily have to be subject to the State law.

Mr. SHANAHAN (Cook). That is the point. If it is merely the organization of the city government, the distribution of powers among its officials, and their tenure and compensation, they should prevail over any laws of the State. But all other matters should not prevail. It is a question of phraseology.

Mr. HULL (Cook). We adopted the suggestion of the committee with reference to that.

Mr. MILLER (Cook). In order to remove any possible doubt about the meaning, I move that after the first word "laws" in line 16, section 2, there be inserted "but not the Constitution."

Mr. HAMILL (Cook). Why not just say "statutes"?

Mr. MILLER (Cook). Then I will change my motion, and make it to strike out "laws" and insert "statutes." I ask unanimous consent to change the motion.

(Consent granted and amendment adopted.)

CHAIRMAN WILSON. The motion is now to pass section 2 as amended.

Mr. DUPUY (Cook). I desire to offer the following amendment:

AMENDMENT No. 4.

Amend section 2 by striking out in line 17 the words "not being in conflict with", and inserting in lieu thereof the words "conform to it."

Mr. DUPUY (Cook). If there is a conflict, as suggested in the lines as originally stated, the conflict might be removed by either changing the

statute or by changing the ordinance. It does not say which shall be done, but if you make it read this way, the matter is plain.

Mr. HULL (Cook). I would leave that to the Committee on Phraseology and Style, although I do not believe it is as good language as the provision already here. Conflict or non-conflict is fairly definite language.

Mr. DUPUY (Cook). Am I right in my observation that if there be a conflict, it may be removed either in one or the other of the two ways mentioned? If you say the ordinance shall conform to the laws of the State, then there is no question about it at all.

(Amendment adopted.)

CHAIRMAN WILSON. The question is now on the adoption of section 2 as amended.

Mr. HAMILL (Cook). I move to strike out the sentence beginning in line 5 of page 2, reading, "The charter framed by the convention and all amendments thereof proposed as provided herein, shall be submitted to and adopted by the voters of the city in the manner provided by the convention." The section requires a question of calling a charter convention to be submitted to the people, and delegates to be elected by the people. I submit they will get a better charter drawn by delegates elected for that purpose with the responsibility laid upon them of drawing a charter, than they will from a convention formed of those who can refer it back to the people for their approval.

Mr. HULL (Cook). I should regret the striking out of the sentence in question. It simply provides for a reference of the charter to the voters of the city, just as there must be a reference of the Constitution which we may frame to the voters of the State. I think we have come to consider the references of any such acts as rather desirable and necessary, and I hope the amendment will not prevail.

Mr. MILLER (Cook). If that amendment prevails, we are denying the people of Chicago a right that any city now has under the commission form of government. If a city were going to have a charter different from that provided by the general law of the State, it should be submitted to a referendum, I would think.

Mr. SUTHERLAND (Cook). It seems to me this is one form of referendum which is distinctly proper, and is one of the forms referred to this morning as being proper. I think it would be a mistake to remove it.

(Motion lost.)

CHAIRMAN WILSON: The question is upon the adoption of section 2. Mr. RINAKER (Macoupin). I am not satisfied yet with the wisdom of this section or any part of it. I desire to offer a substitute for the section in the following form: Strike out all of section 2 and insert in lieu thereof the following:

"A certified copy of any charter or of any amendment thereto which may be adopted by the City of Chicago hereunder, shall be filed with the Secretary of State of the State of Illinois within 30 days after its adoption by both of its citizens, and shall not take effect until so filed."

The idea is this, that if we grant the City of Chicago the broad power contained in section 1, it should have it broadly given, and not restricted, except in those particulars in which the State may be interested; and it may be that the matter of full notice and knowledge of the act of the City of Chicago is of sufficient consequence that it should be reported in the manner provided by this modification of lines 18, 19 and 20 of this section, by reporting the action to the State. Everything else in that section, it seems to me, is purely a local matter which they should be free to meet as they see fit, and act as they see fit in preparing what they regard as their fundamental law. The provision in section 1, that whatever they do is limited by any express limitation of law—and that has been defined to include the proposed Constitution—if that is done, and the State is advised of the action taken by the City of Chicago, the rights of the State and the rights of the city, it seems to me, are fully protected. If we proceed with this proposal, with the minutiae and detail of restrictions and legislative provisions con-

tained in it, we will have some general files, as covered by this proposal, of matter chiefly legislative and chiefly by way of restriction upon the power that we are asked to give, of home rule for Chicago.

It seems to me that it is not in good faith giving the city the home rule that we understand it desires. I am perfectly willing it shall have it, and I do not like to see a legislative provision on the subject embodied in the Constitution that is so full of uncertainty. We have had a dozen different constructions put upon this particular clause, and there are others following that there will be much more confusion about. I therefore move the adoption of this substitute.

Mr. SUTHERLAND (Cook). I hope the amendment will not prevail. It seems to me we must distinguish between an attempt to grant power to a legislative body, and attempt to grant power to a municipal authority which without such grant has no such power at all. This section deals with the power of the City of Chicago to apply its own form of government in such manner as it sees fit, and gives to the voters control over that effort. If we are going to grant home rule powers to a city, it is necessary to grant them specifically in the Constitution. The only other alternative is to leave out their limitation, so that the General Assembly may grant them; and if the General Assembly grants them, probably it cannot grant any of them irrevocably. Many of us have seen instances in legislative circles here at Springfield of efforts to pass legislation affecting purely the government of Chicago which was contrary to the wishes of the Chicago citizens, and which was not in the interest of the State at large. For example, such a thing as the law redistricting the wards of Chicago, contrary to the desire not only of the city council, but the people whom the aldermen and the city council represent. And other instances might be cited.

Now, this is to get away from that situation, and to give the city an opportunity without coming down and knocking at the doors of the State legislature, to frame its own form of government. It seems to me that if this section goes out, you have taken out the very meat of the home rule article for Chicago. Personally, I think it is the best part of the Chicago and Cook County section.

Mr. MILLER (Cook). I do not seem to have made myself clear about the purport of section 2. Section 1, of course, grants Chicago full powers of local self-government, but not in conflict with the State laws, that is, except as expressly limited by law. Of course, the full powers of local self-government means not only powers that they exercise aside from the form of government, but also the form of the city government.

Section 2 deals solely with the charter. Primarily, a charter deals with the form of city government. There are only three things that Chicago could do in relation to its form of government; act under the general Cities and Villages Act; adopt the commission form of government, or if section 2 goes out, frame a charter different from either of those. If section 2 does not go through as it stands, or substantially as it stands, Chicago could not frame a government with different officers, because it would then be in conflict with State law, because the State law provides two ways that cities and villages shall be organized, and if Chicago forms any sort of law differing from either, it is in conflict with the State law. Therefore, the State law would govern and it would amount to nothing.

The amendment here offered would be simply equivalent to striking out the whole thing, and leaving Chicago no power to frame a charter, except as to the form of city government. Furthermore, it does not seem to me that the gentleman ought to be anxious to grant things to Chicago that Chicago is not asking.

Mr. HULL (Cook). I hope the amendment will not prevail. It does not seem to be a friendly amendment to the proposal to have a charter convention, and permit the city to create its own charter. The committee felt on that particular subject matter that specific provision should be made, and we have attempted to make it, which would not involve unfavorable criticism; and I believe the amendment ought not to prevail.

Mr. RINAKER (Macoupin). The amendment is not offered for any unfriendly purpose whatever. It seems to me the grant of power contained in section 1 is broad enough to carry with it the right to frame in such a way as shall not be prohibited, expressly limited, by State law. So I think you would have the right to frame a different form of government, because there is no law that prohibits the City of Chicago, after the adoption of this clause of the Constitution, from framing a third, fourth or fifth form of government.

Mr. MILLER (Cook). Where this says, "except as expressly limited by law," that, of course, means by general law applicable to the whole State?

Mr. RINAKER (Macoupin). It might, and yet not necessarily so.

Mr. MILLER (Cook). That is what it is intended to mean.

Mr. RINAKER (Macoupin). It has been said that the word "law," as used here, is intended to include the Constitution, and that will be the Constitution of which this section 1 is a part; and there is the broadest kind of a grant to the City of Chicago, and that modifies any existing law on that subject. It is a grant outside of the present law, because the present law does not limit Chicago in this new grant of power.

Mr. MILLER (Cook). You will notice that the original words there in section 1 were "subject to existing or future laws," and these substituted words are intended to mean the same thing. That means that whatever powers here are given to the City of Chicago must not give them the right to do anything in conflict with existing or future laws. Therefore, inasmuch as the incorporation laws of the State relating to villages and cities apply to all of the cities and villages of the State, if Chicago undertook to make a special charter, that would be in conflict with existing and future laws. That is the very reason for putting in those lines 12 to 17 in section 2, and the only reason for putting them in.

Mr. RINAKER (Macoupin). My view is that the present words used in section 1 are broader than the original words, "future or existing laws."

Mr. MILLER (Cook). That may possibly be the proper construction, but the Committee on Phraseology and Style understands that that was all that we were asking, and nothing more whatsoever. We not only did not ask it, but we do not want it. We do not want Chicago here given powers of local self-government which shall be in conflict with either existing or future laws. That is the very purpose of this thing, and the very distinction between this and the Ohio Constitution.

Mr. RINAKER (Macoupin). The continual disclaimers of the friends of the measure of an unrestricted grant of power keeps raising the suspicion in the mind of as ignorant a person as myself that perhaps they are afraid to trust themselves in the matter. I am not. I am willing to give you the right to go in and organize under any form, and I do not believe, under the language as used here—and I am a member of the Committee on Phraseology and Style, it so happens—that you are restricted by these words in the way you suppose.

Mr. MILLER (Cook). Well, we want to be restricted just as we were before.

Mr. RINAKER (Macoupin). Why?

Mr. MILLER (Cook). I think the best answer is that the committee were practically unanimous in their belief that this phraseology should be restricted, and not take the chance of Chicago getting outside the State law. We are not asking any such power as that. So far as the committee is concerned, we do not want it.

CHAIRMAN WILSON. The question is upon the substitute offered by the delegate from Macoupin.

(Substitute lost.)

CHAIRMAN WILSON. The question is upon the adoption of section 2.

Mr. DeYOUNG (Cook). My colleague said a moment ago that the words "local self-government and corporate action" include the form that the municipal government may take. It was at that point that we could not agree. I do not believe that those words include the form of organization.

Take the general Cities and Villages Act, divided into several articles. The first provides for the organization of cities; the second has reference to the office of mayor; the third the city council; the fourth elections; the fifth, the powers of the city council, the powers to be exercised; the very clear distinction being in existing laws between the powers, because they are only powers of local self-government and municipal action in the fifth article of the general act.

Let us get this clearly understood. Surely there is no question in the general act as it now stands, because the legislature since 1872 has made a clear line of demarcation between the form of the municipal government and the powers to be exercised. There is nothing here. We have the powers of local self-government. There is not a word in the whole article, from beginning to end, about the form of municipal government. That is provided in the first, second and third articles. I confess it leaves me somewhat in doubt as to what that phraseology means in the first section, and for that reason I contend that if I am correct in my assumption, the formation by a charter convention of the framework of a municipal government is not subject to the limitation of the opening clause of section 1.

Mr. MILLER (Cook). I do not think the form of the Cities and Villages Act is persuasive. There is an artificial division. In the first place, the form of city government; and, second, the powers that are to be conferred by the State upon the local municipal government. The legislature might have included within the powers, power to frame a charter. That could easily have been included, and it seems to me that broadly speaking the form of government is one of the powers of local self-government. The framework or structure of the government is just as much a part of it as any other powers, and broadly speaking, that includes the power, and my construction is that it does here.

Mr. JARMAN (Schuyler). If your construction is right, is not the situation solved by lines 16 and 17?

Mr. DEYOUNG (Cook). Well, I would like to know just what you mean in section 1, the first sentence. That is the point. I do not understand the power of self-government to include the framework and organization of the government itself. It is the power which the existing government can exercise.

Mr. JARMAN (Schuyler). But suppose it does not? Then is not the whole situation solved by lines 16 and 17?

Mr. DEYOUNG (Cook). If the first sentence of section 1 includes the form of municipal government, then, of course, the language in lines 16 and 17 is superfluous—the last sentence.

Mr. JARMAN (Schuyler). That may be true, but to make it certain in the position you want to take, 16 and 17, I think, have been put in.

Mr. DEYOUNG (Cook). I do not know whether that is the purpose of it or not.

Mr. JARMAN (Schuyler). Under those two sections, including lines 16 and 17, can the City of Chicago do anything except in the organization and the framework of government, in conflict with the laws of the State?

Mr. DEYOUNG (Cook). I take it not.

CHAIRMAN WILSON. The question is on the adoption of section 2 as amended.

(Section 2 adopted.)

(Section 3 read.)

Mr. HULL (Cook). I move its adoption. The power given is a power that is now given by law to cities.

Mr. RINAKER (Macoupin). I would like to inquire why there is any occasion for section 3 being inserted in this article?

Mr. HULL (Cook). I am not familiar with the provisions in the Bill of Rights, and it may be that is covered there; but the committee wished to provide in this proposal for eminent domain, including the power to condemn public utilities, and the privileges and licenses held in connection therewith. If it should be found that this does not conform, or is unneces-

sary, in view of the provisions in the Bill of Rights, it could be eliminated by the Committee on Phraseology and Style; but I do not believe it is strictly the same proposal.

Mr. RINAKER (Macoupin). Would it be fair to say that it is not desired by section 3 to add anything to the section in regard to eminent domain in the Bill of Rights?

Mr. HULL (Cook). I am not sufficiently familiar with the provisions to say.

Mr. RINAKER (Macoupin). I would say that there are believed to be some restrictions in the provision in the Bill of Rights that are not, in my opinion, contained within this section, and for the reason that the matter is attempted at least to be covered in the Bill of Rights, I would oppose the adoption of section 3 so that there shall be no question about an attempted extension of the power of eminent domain by this section, that would be in conflict.

Mr. HULL (Cook). Do you understand by section 13 of the Bill of Rights that the power of eminent domain is extended to the taking of public utilities and the privileges and licenses held in connection therewith?

Mr. RINAKER (Macoupin). The language, as I recall it, is "the property of corporations."

Mr. HULL (Cook). There is this apparent difference, as I see it, that section 13 which has to do with eminent domain authorizes the General Assembly to confer upon cities and villages the power of eminent domain, but does not make any specific grant. This section is a specific grant of power to condemn, but it provides that it shall be done in accordance with law.

Mr. DUPEE (Cook). I call attention to the fact that section 3 of the report now before us contains a phrase which is not found in the condemnation clause of the Bill of Rights. In section 3 here are the words, "including public utilities and the privileges or licenses held in connection therewith." It seems to me that it is eminently proper that they should be mentioned here as a matter of caution merely, to provide against a possible construction that public utilities are in a certain sense not private property, and that the privileges and licenses held in connection therewith are not private property, so that what this section 3 does is to remove the possibility of doubt on that question, so that if it becomes desirable for the city to condemn public utilities, and their licenses or privileges, the power to do so is extended in express terms here, and does not have to be derived by implication. So I think that section 3 ought to be passed as it stands.

Mr. HAMILL (Cook). This grant of power to condemn property does not limit the geographic sites of the property. Is it intended that it should be limited to property within the confines of a municipality?

Mr. HULL (Cook). The power to condemn property lying outside of the corporate limits shall be determined by law. That is the second sentence in the section. The first is intended to apply to the exercise of the power within the city.

Mr. HAMILL (Cook). Is there any doubt about the property of public utilities being private property?

Mr. DUPEE (Cook). There is no doubt in my mind that the property of public utilities, and their privileges and licenses, are private property, but I can conceive of the possibility of a doubt being raised on that question by somebody, because a public utility in its nature differs somewhat from other corporations; and in so far as they have a public function, it might be urged that they were exercising powers derived from the public, and that to condemn them would be to condemn a public agency. That would be obnoxious and would not be included under the grant to condemn private property.

Mr. HAMILL (Cook). Is the gentleman familiar with any case that holds that the property of a public utility is not private property?

Mr. DUPEE (Cook). I have not considered the matter at all, not being a member of the committee.

Mr. HAMILL (Cook). It would seem to me we might just as well go ahead and specify every other kind of private property known to human society, and there is no end to it, so when you start to specify some, you raise the possible implication that you are excluding others.

Mr. MILLER (Cook). It has been held that to a certain extent the property of a corporation which is already devoted to public use may be condemned for another public use not destructive of the first; but the question as to whether or not a city may condemn property already devoted to public use, not for the purpose of another or different public use, but simply to acquire the control of the property—I do not know whether that has ever been decided.

Mr. HAMILL (Cook). There are other properties devoted to the public use. Under our decisions, warehouses are impressed with public use, and elevators; and you want to specify them.

Mr. MILLER (Cook). This evidently means the condemnation of the public utility for the purpose of being taken over by the municipality.

Mr. HAMILL (Cook). But when you say you can condemn property for public use, if you say that utility property is private property, why have you not covered it just as clearly in a few words as you do in the whole sentence?

Mr. MILLER (Cook). That may be, but my idea is that if any municipality is going into the public utility business—and I hope not many of them will—I suppose it is necessary that they be given the power to condemn the whole public utility for the purpose of taking it over, and I would question whether they have that right under the present Constitution.

Mr. HAMILL (Cook). Is it not probable that if we give to the City of Chicago power to condemn public utilities, no new private capital will go into public utilities, and will it not be necessary for the city to take them?

Mr. MILLER (Cook). I guess that is about the case now. I think no sane private capital will go into the public utility business in the City of Chicago.

Mr. DUPEE (Cook). I think there is some force in the caution Mr. Miller gives. The City of Moline, a few years ago, undertook to condemn land to widen a street, some of it belonging to the trustees of a public library. The Supreme Court held they did not have the power, because it was already devoted to a public use, and the rule they laid down was that property devoted to one public use cannot be applied to another public use without express legislative sanction. I take it that what section 3 drives at here is to give express sanction by law to taking property for public use, namely, for the municipal use, which is already impressed with public utility use.

Mr. HAMILL (Cook). Was that public library a city library?

Mr. DUPEE (Cook). Yes.

Mr. HAMILL (Cook). The city was undertaking to condemn some of its own land, in order to devote it to a street?

Mr. DUPEE (Cook). Yes, to convert it from one city use to another.

Mr. HAMILL (Cook). Do you think that is analogous to this question?

Mr. DUPEE (Cook). I think the doctrine is.

CHAIRMAN WILSON. The question is upon the adoption of section 3. (Section adopted.)

(Section 4 read.)

Mr. HULL (Cook). I move its adoption. The power to own and operate a public utility is now granted by law, but the one great obstacle, of course, is the lack of financial resources in most instances. The committee had before it many proposals with reference to the ownership and operation of public utilities, and the power to regulate the rates of service. It discarded all of those proposals except the one which is found in section 4, that the power to own, acquire, construct, operate, let or lease, shall not be denied.

Mr. DUPUY (Cook). I move as a substitute for the pending motion that section 4 be stricken out. This provides that the power to do this shall not be denied by law. In other words, it ties the hands of the General Assembly entirely in regard to it. It fixes this policy unalterably in the Constitution. I do not believe in public ownership of street railroads. If it were confined to such public utilities as those supplying light, water and things of that kind, I think there could be no reasonable objection to it; but I believe that the idea of a municipality undertaking the ownership and operation of street railroads is impracticable, chimerical and disastrous. You all remember several years ago when Judge Dunne was elected mayor of Chicago. He sent a cablegram to the general manager of the street railroads in the City of Glasgow, Scotland, to come over here posthaste to show us how to own and operate public utilities. He came and studied the situation for a considerable time, and made a report to the mayor, as we afterwards learned, of his views on the subject. That report went into the mayor's desk or some other place of security, and never saw the light of day, so far as I know. It was many months before the public had any notion of what that report contained.

The substance of it was finally given out by this gentleman himself, and it was adverse to public ownership. Some years after that I was in the City of Glasgow, and I had a curiosity to know what this gentleman thought on the subject, and I had from him the assurance that he thought municipal ownership of street railroads under our present civil service system was entirely impracticable, and he did not think it could be accomplished. I agreed with him at the time, and I agree with him yet, and I hope this motion will prevail.

Mr. HULL (Cook). I think I said when the revenue article was before us that there were two broad opinions with reference to this subject; those who think it is trespassing on the domain of private enterprise for a municipality or government to do anything except protect life and property, and administer justice between individuals; and those who think that where an enterprise is a natural monopoly and ministers to all, it should not be made a matter of private property.

I frankly confess that I was not at either extreme. Personally, I thought the particular circumstances under which particular proposals came up should govern. I am not a municipal ownership and operation fan, as a general thing. I should be inclined to say that it is wise to encourage municipal operation and ownership of enterprises that require a large number of men to administer them, but I do not think that we should be governed in the consideration of this article by views of that kind. Do we want to make it possible for the city to own and operate when the public opinion of the city strongly favors municipal ownership and operation? Or do we want to make it so that some alien body—the legislature, perhaps—can prevent municipal ownership and operation?

Now, as the section of the revenue article which I introduced was framed, it might have been possible for the city to purchase, own and operate a public utility under the financial powers there given, if the amendment had been adopted as it was introduced; but you will remember that either Mr. Miller or Mr. Hamill introduced an amendment requiring action of the legislature in order to be able to tap the financial resources which that section gave to a city which might wish to operate and own a public utility. That is one check already provided for, and I believe it would be unwise, in view of the sentiment that does exist, to deliberately take this out of this article, especially as it can be invoked without the action of the legislature in respect to financial power.

Mr. WHITMAN (Boone). A point of order. A motion to strike out is not a legitimate motion to make as a substitute. You have got to place something in place of what you are striking out. That is merely a negative of the other motion.

CHAIRMAN WILSON. Judge, do you wish to change your motion?

Mr. DUPUY (Cook). If the point be well taken, I will offer it in that form, as an amendment. The same purpose is reached, undoubtedly, however, by voting down the motion to adopt. I ask that the delegates who agree with me vote against this, and give expression to their views in that manner.

Mr. HAMILL (Cook). Was consideration given to a possible conflict between section 4 and this section of the revenue article which we adopted here the other day?

Mr. HULL (Cook). I do not see that there is any possible contradiction. This goes simply to the corporate power, to own, acquire, construct, operate, let or lease, and the section of the revenue article which we adopted went entirely to the financial power.

Mr. HAMILL (Cook). If I remember correctly, it was clear from those sections that the city would not have the power save as granted by the General Assembly.

Mr. HULL (Cook). The city would not have the power to borrow money save as permitted by the General Assembly. That amendment went exclusively to the question of the right to incur an additional indebtedness for the purpose of maintaining and operating a public utility.

Mr. HAMILL (Cook). My recollection does not accord with yours on that.

Mr. MILLER (Cook). If this goes through, the situation would be that the legislature cannot take away the right to own and operate public utilities, and sell the product thereof; but neither can the city get the financial power unless the legislature affirmatively acts. I do not think it makes very much difference.

Mr. GREEN (Champaign). I observe that in section 3 the power of eminent domain is extended to the privileges and licenses held in connection with public utilities. If it should turn out that the City of Chicago owned something that was defined to be a public utility, would it be possible for it to make a 99-year lease of the property through the action of its city council under this provision, to somebody else to operate it?

Mr. HULL (Cook). Under section 4?

Mr. GREEN (Champaign). I referred to section 3, because that carries with it the privileges and licenses in connection with utilities.

Mr. HULL (Cook). Section 4 grants the power to let or lease.

Mr. GREEN (Champaign). Assuming the city had acquired a utility under section 3, together with the privileges and licenses incident to and in connection with the utility, which are a part of the property, would it be possible for the city government, in whatever form it was, to make a binding contract for a 99-year lease, or a 50-year lease, on that property, for operation, to a private corporation?

Mr. HULL (Cook). I should say, so far as that is concerned, that could be controlled by general law, as to the time; but I think it would be possible that they could make a lease.

Mr. GREEN (Champaign). You think the words "should not be denied by law," would deny the legislature the power to control the terms of the lease?

Mr. HULL (Cook). It might permit them to control some of the terms of the lease.

Mr. GREEN (Champaign). My mind reverts to the Allen bill, and I wondered if this was consistent. It seems just the other way, that they would have nothing to say about it, and the city would be supreme.

CHAIRMAN WILSON. In view of what the chairman of the committee has said, that he hoped there would be a full and free discussion, I wish to take the liberty of saying that I have been continuously and constantly against the public ownership of so-called public utilities, so much so that it is not necessary for me to go into detail about it. I am glad to stand with Judge Dupuy. I hope section 4 in its present form will not be adopted.

Mr. HAMILL (Cook). As my memory serves me, the chairman of this committee raised some question when we were discussing the revenue article

as to what was meant by the words "public utility." Is the doubt that then existed in his mind now cleared up? If so, will he let us into the secret?

Mr. HULL (Cook). I presume that public utilities are defined now by statute, and follow the definition in the present statute. Your question came up before in connection with the use of the words "other public utilities" in the original proposition.

Mr. HAMILL (Cook). No, the question came up with reference to section 12 of the revenue act. You raised the question that the definition there was not sufficient. Thereupon it was changed so as to substitute for the words "public utilities" the words "any income producing property for the supply of transportation, communication, light, heat, power or water."

Mr. HULL (Cook). If the gentleman raises the question with the idea of putting in a definition such as was put in there, I would have no objection.

Mr. HAMILL (Cook). That does not answer the question. Are you definite in your own mind now as to what public utilities mean as here used? If so, please state.

Mr. HULL (Cook). I do not believe I can answer that question directly.

Mr. MILLER (Cook). In view of the provision adopted since this section 4 was framed—that is the one which has become a part of the revenue article, which provides that in order to finance an income producing utility certain provisions must be complied with, and it must be authorized by law—does section 4 really insure to a municipality something which they would not otherwise have?

Mr. HULL (Cook). If you have them go to the legislature to finance any public owning and operating a utility, with the single possible exception coming within the five per cent limitation within which they are permitted to borrow money, to acquire borrowing power sufficient to enable them to own and operate the utility—

Mr. HAMILL (Cook). I do not think they would have it even then.

Mr. HULL (Cook). Well, some very small utility perhaps—but the resources they would have under the borrowing power would be very limited, and it is very doubtful whether municipalities could get very far with the finances which would be available under the five per cent limitation. So, answering your question, it gives them very little assurance of the ownership and operation of the public utilities.

Mr. MILLER (Cook). Is it not perhaps just as wise to leave this out, inasmuch as it does not assure them anything substantial, and inasmuch as the question is always a troublesome one, as to what constitutes a public utility? A public utility is what some court says a public utility is, and it may be extended indefinitely. At the time this was drafted, this other matter had not come up. It rather seems to me that if, as it now appears, this does not assure anything substantial to the municipality, there is no real good reason for putting it in.

Mr. HULL (Cook). There may be very much point in what Mr. Miller says, but I think it has a certain sentimental value in the submission of the Constitution. It makes a fine talking point for the opponents of the Constitution to say that when the committee got to section 4, the representatives of the big interests cut out section 4, which protected the city in the right to own and operate a public utility. There may be considerable force in the argument of Mr. Miller, but I think there ought to be some force, too, in the sentimental consideration which I have urged upon you.

Mr. MILLER (Cook). I will offer an amendment as follows, then, to strike out the words "public utilities" and insert in lieu thereof the words, taken from section 12 of the present revenue article, "property for the supply of transportation, communication, light, heat, power, and water."

Mr. LINDLY (Bond). Does that include telephone?

Mr. MILLER (Cook). Yes.

Mr. TAFF (Fulton). Supposing the legislature would make restrictions upon the right of a city to finance a particular utility. Wouldn't that be

construed as a denial to the city of the right to own or operate that particular utility?

Mr. MILLER (Cook). I would suppose not. I would not think so, any restriction which did not obviously and of itself amount to a denial.

Mr. TAFF (Fulton). Would there not then be a question of what was a proper restriction upon the right to finance?

Mr. MILLER (Cook). I would think so.

Mr. TAFF (Fulton). Might that then not obviate the restriction which we have already placed of 15 per cent upon the real estate value, in the city? In other words, might the courts not construe that as a denial of the right to own and operate certain public utilities?

Mr. Miller (Cook). Offhand I would say that if section 4 were a part of the Constitution, and the other restrictions voted into the revenue article were a part of the statute, that question would very likely arise; or if that part that is now section 12 of the revenue article were a part of the Constitution, and subsequently section 4 were put in the Constitution by amendment, then the question would be very likely to arise. But if the two were put in at the same time, I would suppose they would have to be construed together, so that the question could not very well arise.

Mr. TAFF (Fulton). Although in this article you are dealing specifically with Chicago, and this article applies only to Chicago. Do you think that answer would still apply?

Mr. MILLER (Cook). I think you are right.

Mr. GREEN (Champaign). Assuming your answer was correct, that the legislature could control a lease by general law, suppose the city council made a lease for 50 years before the legislature could act. Could it invalidate the lease and prevent the lease by the city of the utility which it had acquired under this article, to private operation?

Mr. HULL (Cook). I doubt it. Your question might suggest the propriety of an amendment to section 4, however, to the extent that no such lease shall extend beyond a certain period.

Mr. GREEN (Champaign). If that be true, would not this open wide the door for exploitation by the public of such process?

Mr. HULL (Cook). I think an amendment of that kind would be proper, and if you draft it, I would be glad to put it in.

Mr. HAMILL (Cook). When you say that the General Assembly shall not have power to forbid the leasing, it might leave with the General Assembly power to forbid the sale; and if the General Assembly should forbid a sale, what would a city do with a losing public utility which it had acquired?

Mr. HULL (Cook). You are trying to make some limitation on the power to sell a utility by inference?

Mr. HAMILL (Cook). Yes.

Mr. HULL (Cook). I do not believe it is there.

Mr. HAMILL (Cook). When you say the General Assembly shall not have power to deny certain things, it could by implication leave the power in the General Assembly to deny everything.

Mr. HULL (Cook). Possibly.

Mr. HAMILL (Cook). So the General Assembly could enact laws forbidding the City of Chicago to divest itself of a losing public utility which it had acquired?

Mr. HULL (Cook). That raises a hypothetical question which is outside the limits of my imagination. I do not think they will ever pass any law prohibiting the city from selling a public utility, provided it has been demonstrated to be a losing venture.

Mr. GREEN (Champaign). Is that not the very thing which would bring about unfortunate exploitation by long time leases, and might not the General Assembly be influenced to make the denial of a sale for that express purpose? Suppose, for instance, there was a repetition of the experience in connection with the Allen bill.

Mr. HULL (Cook). I confess I believe it might be wise to put a limitation here upon the power to lease, or at least make it possible for the legislature to put a limit upon the length of the lease.

Mr. GREEN (Champaign). And any control over the terms of the lease?

Mr. HULL (Cook). No.

Mr. MILLER (Cook). I will suggest to the chairman of the committee the propriety of asking leave to withdraw for the present consideration of section 4. My reasons are that it seems to me that any slight advantage that this gives to a municipality does not compensate for the disadvantage which has been suggested by Mr. Taff, which appears to me to be sound; and if it is to go through, I think it ought to be entirely revamped.

Mr. HULL (Cook). If it is desired to postpone consideration of section 4, I will withdraw my motion for its adoption, and ask unanimous consent to have section 4 passed temporarily.

(Consent granted.)

Mr. MILLER (Cook). The subject matter of section 1, of course, includes the subject matter of section 2.

Mr. DEYOUNG (Cook). Not necessarily.

Mr. MILLER (Cook). Does the gentleman contend that the subject matter of section 2 does not relate to local powers of self-government?

Mr. DEYOUNG (Cook). The lines concerning which the amendment was offered have reference to the organization of government, the distribution of powers among its officers, and their tenure and compensation.

Mr. MILLER (Cook). The question is, is there any doubt about the subject matter of section 2 relating to local powers of self-government?

Mr. DEYOUNG (Cook). Why, the first 11 lines have reference to that, probably.

Mr. MILLER (Cook). Has not every word in section 2 relation to local powers of self-government?

Mr. DEYOUNG (Cook). I would not say so, no.

Mr. MILLER (Cook). The form of government does not relate to the local power of self-government?

Mr. DEYOUNG (Cook). Evidently I did not make myself clear. I have been told by the chairman of the committee that the subject matter of section 1, which has reference to the powers of local self-government and corporate action, is one thing, and the limitation in lines 12 to 16 is quite another.

Mr. HULL (Cook). Because the whole section takes them out and makes them something different.

Mr. HAMILL (Cook). May I ask the chairman what "shall be authorized" means?

Mr. HULL (Cook). That is intended as a grant of power to a municipality to join in the acquisition, construction, etc., of public utilities.

Mr. HAMILL (Cook). Then you mean the city is authorized?

Mr. HULL (Cook). Yes. A grant of power. It intends a grant of power. That draft was taken from the State wide proposal which was submitted to the committee by the Committee on Municipalities, and it had the very obvious purpose of permitting joint operation of certain kinds of utilities such as sewers, water mains and properties of that kind. It also had as a purpose the repeal of the definition which the courts have given to the words "local improvements." I believe the courts have given a meaning to that word which prevents the co-operation of adjoining municipalities in the building of a local improvement, which is participated in by two municipalities.

Mr. HAMILL (Cook). You are going beyond the scope of my question. I am interested now in "shall be authorized," or the equivalent, "the city may join with any other," is that what you intended?

Mr. HULL (Cook). That is what we intended.

Mr. HAMILL (Cook). I move the words "shall be authorized to," be stricken out and the word "may" inserted in lieu.

Mr. HULL (Cook). I have no objection to the amendment except the general indisposition to turn this Committee of the Whole into the Committee on Phraseology and Style.

Mr. HAMILL (Cook). I am only trying to find out what it means. As it is drawn, nobody knows what it means, now. I assume you meant the General Assembly would have the power to authorize. The General Assembly is under a mandate to authorize, but that it not what is intended.

Mr. GREEN (Champaign). I would like to know what is meant by the last three words, "other local services."

Mr. HULL (Cook). That is again a phrase which was a part of the proposal of the Committee on Municipalities. I believe when it was proposed it had in mind services possibly that are not within the present meaning of any utilities.

Mr. GREEN (Champaign). Are the words meant to be confined to municipalities outside of or within Cook county?

Mr. HULL (Cook). No, adjoining municipalities—yes, they necessarily would be inside of Cook county, I believe.

Mr. GREEN (Champaign). That is, you mean they join with other adjoining municipalities?

Mr. HULL (Cook). It ought to be confined to adjoining if there is any good reason for co-operation with other municipalities.

Mr. GREEN (Champaign). In other words, this should be broad enough to join with the City of Joliet, for instance, to build a railroad to Joliet, if necessary?

Mr. HULL (Cook). I have no apprehension of that, that could not be.

Mr. GREEN (Champaign). Would that be possible?

Mr. HULL (Cook). Oh, possibly. What we had in mind was giving an opportunity to the city to join with adjoining municipalities, and that is what was in the mind of the committee particularly, and the definition which has been given to the local improvement was also in the minds of the committee, that a local improvement is an improvement which is confined exclusively to one city and cannot be used in another city.

Mr. GREEN (Champaign). If it is changed to "may" and if it is not confined to Chicago and Cook county purely you undoubtedly would want the language to remain as it is, requiring some action of the General Assembly, because you would want some co-operation from the municipality not covered by this article.

Mr. DEYOUNG (Cook). So far as the making of local improvements is concerned, isn't that covered by section 97-A of the local improvement act, now, so that two or more municipalities may join in making public improvements?

Mr. HULL (Cook). I have taken the word of better informed members on that, as they were more familiar with it than I am.

Mr. DUPEE (Cook). The statute was passed enabling them to, but the Supreme Court held it bad.

Mr. DEYOUNG (Cook). That was the section itself; it did not hold that it was incompetent for the legislature to provide it?

Mr. DUPEE (Cook). No.

Mr. DEYOUNG (Cook). The legislature was competent, but the particular act itself was bad?

Mr. DUPEE (Cook). Yes; they held it would not be a local improvement. Mr. Chairman, I understand somebody raises the point, and it seems to me a forcible one, that has to be taken care of, while you may say that the city can join with another municipality in these various operations indicated by section 5, that does not give any power to the other municipality with whom the city desired to join, and which cannot at the present time join with any other municipality. This is authority to the City of Chicago to join with another town, but it is not authority to the other town to join with the City of Chicago, so it seems to me that legislative action will be necessary.

Mr. MILLER (Cook). I wonder if that is not really covered? The city may join with another municipality in such manner as may be provided by law for the joint acquisition. Isn't that covered by implication, isn't that by implication a power granted to both, provided they are in Cook county, this is a Cook county article?

Mr. DUPEE (Cook). That may cure it.

Mr. TODD (Peoria). I believe, inasmuch as these sections contain words as was contained in Section 4, action ought to be deferred until section 4 is considered, and I move that we pass section five temporarily.

(Section 5 passed.)

(Section 6 read.)

Mr. FIFER (McLean). So far as I can see now, I am opposed to section 6 in its present form. If the members will recur to section 6 you will find it starts out all right and gives the General Assembly authority to pass local and special laws, application to the government and the affairs, and note the word "affairs"—of the City of Chicago.

After granting the power it provides further that the law shall not be effective until assented by the City of Chicago or the local authorities. Now the power granted to the legislature had just as well not be granted at all, and then allow the local authorities to initiate and pass any local or special law they see fit. That is not all; the section, it will be seen, concludes by defining what a special or local act shall be, and it is a law that applies to Chicago alone. That is the effect of it, but possibly not in that language. Now, if this section should be adopted and become a part of the Constitution we could pass no law that would apply to Chicago alone. There are many laws and constitutional provisions, for that matter, applying alone to cities above one hundred thousand inhabitants. Now should this become a law, I very much fear—possibly the chairman of the committee will be able to remove these fears—that this will take away from the General Assembly the power to legislate in reference to warehouses and possibly the stockyards of the City of Chicago. Section 2, Article 13 of the present Constitution, which is in relation to warehouses, provides that in cities having more than one hundred thousand inhabitants the operators of warehouses are required to do certain things, they are to make weekly reports under oath as to the amount and quality of grain in their respective warehouses, etc. Now, when I came here I understood that Chicago would move for a liberal home government, and I made up my mind to vote for a proposition that was as liberal as could be made, limited only by the rights of the people of Illinois who live outside of that city. Now for years there has been an effort to pass laws regulating the Chicago stockyards, in addition to the warehouse laws. Now I would like to have the chairman enlighten us on that subject, that if this provision is adopted and the legislature would undertake to pass laws in pursuance of section 2, Article 13, of the present Constitution, how would it go about it, and if that would not be in violation of section 6 that is now before this committee?

Mr. HULL (Cook). Section 2 of Article 13 is pretty near a complete act in itself—no, I beg your pardon, it provides that these things shall be done in pursuance of laws enacted by the General Assembly.

Mr. FIFER (McLean). Yes, they must not only make a weekly report, but one of these reports must be posted in the office of the warehouse, and there must be a daily notation on that about the shipments of grain and the quality, etc., together with warehouse receipts. As I remember it now, I had forgotten what the legislature had enacted, but I know there are many pages of law, as I now remember it, and under this proposition those laws would be unconstitutional because they apply solely to Chicago. This provision says they are special laws and cannot be enforced. They have no effect unless the people of the locality assent to them. Now possibly, as I said in the beginning, the learned chairman of the committee may be able to enlighten the committee in regard to that.

Mr. HULL (Cook). When this section was adopted the thought of section 2, article 13, was out of our minds; we only had in mind the necessity of protecting the city from hostile legislation, such as has afflicted some of the other big cities of the country from hostile legislatures. We have had a lot of special legislation for the City of Chicago, by description where it was applicable to all cities of one hundred thousand or more. We wanted to be free from hostile legislation of that kind, but still remember that a big city like the City of Chicago had some problems which are peculiar to itself, and also some in common with the other cities, we wanted to be in a position where such legislation could be enacted and accepted by the City of Chicago.

The purpose of section 13, Article 2, or rather Article 2, section 13, so far as that is concerned was not in our minds. I would not have any objection whatever to having a saving clause at the end of section 6, "except as otherwise provided in this Constitution," if that will meet your objections.

Mr. LINDLY (Bond). Wouldn't that affect all special legislation, or only this one?

Mr. HULL (Cook). It would affect the special legislation that is contemplated by section 2, Article 13, of the warehouses.

Mr. FIFER (McLean). The trouble about that amendment, Senator, is there are other industries that may arise in that great city where the people from the country may have to deliver their goods and trade, and it may become just as necessary to regulate those as it seems to me at the present it is to regulate the warehouses in the city. I think the one instance would be the stockyards, and as I remember it, no law has ever been passed regulating the stockyards of the City of Chicago, and yet there has been repeated efforts to pass such a law, and there may be other institutions now where our people would be interested in.

Mr. HULL (Cook). You have a stockyards in the City of East St. Louis, a city of considerable size, and we would not want to be regulated in our stockyards in the City of Chicago by anything which would advocate against us and work in favor of the stockyards in the City of East St. Louis.

Mr. FIFER (McLean). You cannot tell about that; I never heard any complaint about the stockyards of East St. Louis, but I have heard a great deal of complaint in reference to the stockyards of Chicago.

Mr. HULL (Cook). No legislature, it seems to me, would, but any legislation which has to do with anything of that kind, ought to be general legislation applicable to all communities. The convention did in 1870 make an exception of the City of Chicago with reference to warehouses. We are not proposing to perpetuate that discrimination, because I think it is a discrimination, but I don't think we should be picked out as a special object of discrimination in that way. That is the reason that this section is here. We want to be controlled and treated, so far as general legislation is concerned, the same way the rest of the State is considered, and not picked out as an objective for legislative attack. So far as that warehouse provision is concerned, I would have no objections to an amendment at the end of the section.

Mr. FIFER (McLEAN). Wouldn't your proposed amendment, if that was all, wouldn't the legislature be excluded from ever passing any law and from regulating the stockyards unless the local authorities there assented to the law?

Mr. HULL (Cook). Not if it was a general law.

Mr. FIFER (McLean). I am not making any captious criticism at all. I am in the main favorable to your proposition, but there are some places where I think it ought to be amended. I do think in its present form that that is a very dangerous provision, not only for the people of Chicago, but especially for the farmers and the stock raisers of Illinois.

Mr. MILLER (Cook). This measure would leave the legislature free now to start and pass some law which applied only to Chicago and East St. Louis, or only to East St. Louis and Peoria, or only to Chicago and Freeport, or only to Chicago and Rockford. Wouldn't it satisfy your very purpose if you passed a law of that kind, if you passed a law which applies only to Chicago and Rockford, for instance?

Mr. FIFER (McLean). Yes, but it must apply before the assent is necessary. It must apply solely to the City of Chicago, and you undertake, should this become a part of the Constitution, to connect up some city, East St. Louis for instance with Chicago, and you might meet with great opposition from that quarter because there would not be any necessity for it. Now there is a great necessity, in the minds of those acquainted with the situation, there is a very great necessity for the warehouses of Chicago, and for the stockyards of Chicago, in the minds of a great many people, to be regulated.

Mr. MILLER (Cook). But here it is provided if you have Chicago's consent you can pass all sorts of legislation, and wouldn't it be just kind of fair, if you wanted special legislation for Chicago, to hook up some city, not Bloomington, I mean, but some other city, Peoria for instance?

Mr. FIFER (McLean). If you apply it to Chicago alone you must have the assent of the local authorities; and that is the trouble, and the rest of the cities might think it ought not to apply to them.

Mr. MILLER (Cook). Would that be a good reason for not applying to another city?

Mr. FIFER (McLean). No, but up to this time the people of the State have not found any necessity for applying such a law to any other city except Chicago. The shipment of grain there is so stupendous and there is so much stock shipped to the stockyards there, we often thought it was necessary to have some regulation of those industries; and 50 years ago, when Chicago was a small city compared with what it is now, they thought it necessary to put in the Constitution a provision they were not willing even to leave it to the General Assembly they legislated, to a certain extent, it is self-enforcing, but provided that the General Assembly shall make laws, in pursuance of that constitutional provision, and then they enacted laws—pretty lengthy provisions covering every minutae of the business, and every grain shipper to that grain market knows the value of that constitutional provision and those laws, enacted in pursuance of it, and I would regret to see a provision put into the present Constitution denying the right to the General Assembly to follow the interests of the grain shippers and stockmen of the State, to regulate those great industries.

Mr. GREEN (Champaign). Suppose special legislation was granted or approved by the city, which it afterwards developed was obnoxious or burdensome to the city, would it be possible for the State to secure any changes under this provision?

Mr. HULL (Cook). I suppose the legislature could repeal what it passed.

Mr. GREEN (Champaign). Repeal it after the city accepted it?

Mr. HULL (Cook). If the repeal amounted to special legislation, I presume it would have to be by amendment. I would like to offer an amendment covering the objections of Mr. Fifer, but I doubt if his objection is pertinent to this section. The section contemplates the sort of legislation which creates parks for cities of a certain size, or sanitary districts for cities of a certain size, or libraries or things of that kind, and I do not think it contemplates the sort of legislation which the Governor has in mind. Nevertheless I offer the amendment, perhaps not in the best of form, "except as otherwise provided."

Mr. FIFER (McLean). I can only speak for myself personally and I will say that I would not be satisfied, because it would deny to the people of the State what they have been clamoring for for forty years, and that is regulation of the stockyards, and I feel sure there are some other industries there in which the people happen to be interested where they market

their goods outside of that, that ought to be regulated, and you cannot tell what other institutions might arise.

Mr. HULL (Cook). As I stated before we object to being singled out for attacks on things that you do not want us to have. We are perfectly willing to have the provisions of the Constitution to apply so far as it has to warehouses, but I don't think it is fair to reserve the power to make all kinds of discrimination against us because we are in the City of Chicago.

Mr. FIFER (McLean). I want to assure the senator that this criticism is not directed against the City of Chicago. It is the warehouses; if those warehouses were out here on the prairies the reason for regulating them would be just the same. The same thing applies to the stockyards, and it has nothing to do with Chicago. I am sure every delegate down State has the most kindly feeling for Chicago. It is against these warehouses, the places where this stupendous amount of grain is traded. It ought to be regulated and regulated with the most scrupulous faith, and they should be under the laws passed by the General Assembly. Because it happens that Chicago is a large city it does not follow that the criticism is against the city, it is not against any city—it ought to be regulated, the interests are so large, the business is so vast and the people outside are so helpless they ought to have some fixed laws by which they are regulated.

Mr. TRAUTMANN (St. Clair). As I understand the last sentence of section six, it applies to laws to be passed by the General Assembly. The part you speak of with reference to warehouses, it is a constitutional provision, and so far as warehouses are concerned it would not apply, but it may as far as the stockyards are concerned.

Mr. FIFER (McLean). You would then have the anomalous position of two contradictory provisions in the Constitution which none of us wish to carry out. And section six makes laws inoperative, it deals with laws and not with the Constitution. The law is inoperative unless the local authority or the local people assent to the law. They first grant a great power to the legislature, and then they leave them empty handed and powerless as they were before, it is all up to the local authority. I might say in regard to this amendment, there is the Board of Trade, there is a great outcry at this time that they must be regulated, and I saw a dispatch not long ago, I think it was in one of the Chicago papers, that the State of Kansas was going to regulate their board of trades, in that state, with the most rigid laws, and I don't think we ought to put up the bars in the face of the people of Illinois and say that you shall not, if it becomes necessary hereafter to regulate the Board of Trade, and stockyards, and other like institutions in that city, that they should not have any power to do so.

Mr. RINAKE (Macoupin). I started to ask a question a while ago about section six, and the matter of Governor Fifer's inquiry is entirely different from what I had in mind. I will say however that it does not seem to me that this section relates to laws covering any such institutions such as warehouses, or stockyards or anything of that kind because it relates only to the government or to the affairs of the City of Chicago, but the question I desire to ask was this: why is this section necessary? Is it not directly inconsistent with the last sentence of the second paragraph on page two? Now this provision is that the General Assembly may enact local or special law relating to the government of affairs of the City of Chicago. Why should they be permitted to do that? If the City of Chicago is given full power of local self-government and if it has that power then isn't it absurd to give the General Assembly power to pass some kind of legislation, and then to say that that legislation shall not be effective until it is consented to by the city? If that is satisfactorily answered, how can there be any ordinance of the City of Chicago or any charter of the City of Chicago in conflict with any state law, as you provide in lines 16 and 17 on page two? Doesn't this practically repeal the prohibition you have there?

Now it seems to me it would, because while that is in connection with the passage of the charter it also relates to all ordinances that may be passed under it, and they shall conform to the State law, but the State law

on the other hand has to conform to the ordinances or action of the City of Chicago, before it shall be effective. That is your language.

Mr. HULL (Cook). I do not see any inconsistency between those two provisions. The sentence in section two to which Judge Rinaker refers applies only to provisions in the charter, which are substantive in character, and must be made to conform to State laws. Now section six is intended to permit the special legislation relating to the affairs of the government of the City of Chicago, when it needs such legislation, and section six gives that authority. I do not see that there is any inconsistency between the two sections. I am not talking of the amendment that I submitted, and I suggest that that amendment be acted on first. I do not believe that it is necessary to have the amendment but I offered it for the purpose of saving the point that has been raised by the gentleman from Bloomington.

Mr. FIFER (McLean). The amendment is good as far as it goes, but the trouble is it does not go far enough, and it emphasizes the fact that the General Assembly would have no right to regulate any of the institutions in which the down State people were interested except the warehouses.

The expression of one thing excludes every other thing. The interpretation to be placed upon the provision if passed as amended would be unmistakably that nothing else but warehouses would be excluded.

Mr. BARR (Will). Isn't the effect of section six really to give the legislature no power at all or rather doesn't it prevent the legislature from enacting any special legislation or any legislation that may be applicable locally to Chicago, and for that reason you may as well, may you not, leave it for ordinance regulation entirely, as to provide that the legislature make statutes, which statutes must be acted on by the city before they are effective or accepted by the city. Then why not simply leave the matter entirely to the city to enact ordinances with reference to the local affairs rather than to suggest that the legislature may pass laws that will be applicable to the affairs peculiar to Chicago, and yet will not be effective until an ordinance is passed making them effective?

Mr. HULL (Cook). I am not sure that I have in mind what you have in mind.

Mr. BARR (Will). Perhaps I have not clearly expressed what I have in mind. But the point I am making is, isn't this suggestion of legislation by the legislature simply expressing nothing. You have an ordinance to make it effective. What is the use of having a statute, at all, or permitting a statute by the legislature?

Mr. HULL (Cook). I would presume that the legislature would cover some subject matters which would not be covered by local ordinances.

Mr. BARR (Will). But a local ordinance would have to be passed accepting it.

Mr. HULL (Cook). Yes.

Mr. BARR (Will). Then what is the use of passing legislation by the legislature?

Mr. HULL (Cook). Because it might cover a subject which could not be covered by an ordinance.

Mr. BARR (Will). What subject matter in local affairs?

Mr. HULL (Cook). Creation of additional park districts, or additional governing bodies, or transportation district or something of that kind, which has not been suggested, not a drainage district, but a new district to build some other scheme for disposing of the sewage.

Mr. BARR (Will). And that power does not exist in the city under the provisions of the Constitution?

Mr. HULL (Cook). Well, the city, for instance, might combine the Sanitary District with the City of Chicago, and at some subsequent period it might be desirable that some new plan should be provided for taking care of our sewage, other than by the Sanitary District, and it may require some special legislation to do that, applicable solely to the City of Chicago. Now most of these matters which are applicable to the city come at the request of the city. Of course that is true, in all such instances the

assent would be given, but this is to provide to protect the city from legislation which is against the disposition of the city, and against the wishes of the city, but to enable the legislature, where it is desirable that there should be legislation for the city, to get such legislation. There may easily be situations such as I suggest, where the nature of the situation is such, with the large growth of population there, some legislation is required which is not required for any other city in the State, and where otherwise you would have to provide it by description, by population, and we want to get away from the necessity of describing the city by population, and really intend to have a special law saying you can do that and can do this in the city of Chicago.

Mr. BARR (Will). Your answer satisfies me on that subject. There is one other thing I want to ask you, however, as to the word "affairs," especially with reference to the last sentence, "A law which at the time of its enactment is applicable to the government or the affairs of no other city than the City of Chicago shall be deemed a local or special law."

Does that mean that there is some subject matter on which if legislation were passed or enacted by the State then although the statute might in terms apply to other cities, yet if the matter affected by the legislation existed only in Chicago, then under this provision it would be considered as local legislation?

Mr. HULL (Cook). I think you are right.

Mr. BARR (Will). If there was only one Board of Trade in the State of Illinois, and that was in Chicago—I am only mentioning that because it was spoken of here in the debates, referring to the regulation of Boards of Trade—if there was no other Board of Trade, that would be a local law which would have to be accepted by the City of Chicago?

Mr. HULL (Cook). I don't think that would apply.

Mr. BARR (Will). I assume that the Board of Trade has to do not only with local affairs but outside affairs; but if the subject matter of the legislation, whatever it might be, applied only in the City of Chicago, does it become effective?

Mr. HULL (Cook). Let me answer your remarks about the Board of Trade. Now they are dealing in futures on grain, and any legislation with reference to that matter is made by description which covers the transaction which takes place. That transaction can take place anywhere, an option contract, such as a gambling contract, can take place anywhere. I do not see how that is possible to be considered as a subject matter which would come within the purview of this section.

Mr. BARR (Will). Well, perhaps my illustration was not a good one, but that came to my mind and I simply mentioned it. It occurs to me, however, that there might be things or subjects and subject matters that existed in the City of Chicago, and yet that legislation might be very essential.

Mr. HULL (Cook). I think you will find, if you go through the list of them in your mind, you will find that they are affairs which require legislation, that they are affairs which concern people everywhere, throughout the entire State. They are matters of common interest to people throughout the State. This does not prevent the exercise of the general police power of the State in any way.

Mr. BARR (Will). I presume that would be true, perhaps.

Mr. HULL (Cook). The language, I think, refers to the government of the city and its affairs, and not any matter of common interest which arises out of a transaction between man and man, as you described, and which would be subject to legislation under the general law.

Mr. RINAKER (Macoupin). The instance I gave was not a fortunate one, but under the definition of the last sentence of section 6, if that is not in direct conflict with section 1, where you say "except as expressly limited by law," that means either before or after the adoption of this Constitution the City of Chicago is hereby granted complete powers of local self-government in all municipal purposes. I agree with you that the Board

of Trade and stockyards or anything of that kind is wholly outside of the contemplation of section 6, but a law passed by the State which would apply by its terms or the necessity of the case to the City of Chicago alone would be expressly prohibited by this act unless the city should assent and consent to it? Isn't that right? Relating purely to the government of the affairs of the city? The language there is almost synonymous and identical with the grant of powers in section 1. It is local in its shape, and special within the definition you gave.

Mr. HULL (Cook). Let me answer your question. It is not contemplated in section 1 that we are going to get out of the State of Illinois, and that we are never going to have special legislation, that we are going to constitute a little new separate sovereignty and will not have to come to the State legislature. We hope that we won't have to come to it very often, and we hope to obviate a good deal of the legislation that gets into the legislature here, but it is conceivable that we may have to come with reference to just the sort of thing I was speaking about a few minutes ago, we consolidate our park boards. That language covers the sort of a situation that we have in mind very clearly.

Mr. KERRICK (McLean). This article, section 6, contemplates and permits Chicago to become a much larger city territorially than it is now by connecting up with it the other municipalities, doesn't it?

Mr. HULL (Cook). Yes.

Mr. KERRICK (McLean). It also contemplates primarily the inclusion of all the territory occupied by the Sanitary District as a part of the municipality of Chicago?

Mr. HULL (Cook). It contemplates the possibility of a consolidation of the Sanitary District with the City of Chicago.

Mr. KERRICK (McLean). That will bring the operation of the Sanitary District within the local government of the municipality of Chicago?

Mr. HULL (Cook). That will bring the functions which are emphasized by the Sanitary District within the control of the City of Chicago.

Mr. KERRICK (McLean). The privileges given under this section, and the limitations provided for, when the Sanitary District is taken in as one of the corporations which may be taken in, it is subject to whatever provisions we put into this constitutional provision, and it would be left to the State legislature?

Mr. HULL (Cook). Only the control that comes to the City of Chicago would be subject to the provisions of this Constitution.

Mr. KERRICK (McLean). As the law now stands it states that the powers given to the Commission, created by that act, exempts the Sanitary District of Chicago; it is exempted from the operation of that act by the operation of that act, I mean the power vested in the Commissioners to compel every municipality and every city, town and village outside of the Sanitary District to do whatever that Utilities Commission requires concerning the disposal of its sewage, when that act was passed by the legislature, as you are well aware I presume, Chicago did provide that the Sanitary District of Chicago should be excepted from its operation. The Commission had no power whatever over the disposal of Chicago sewage, but had complete and arbitrary power over the disposal of the sewage of every other municipality in the State of Illinois. Now if the legislature of the State of Illinois should amend the Lakes Waters and Streams Act by striking out the section which now is a part of the act, exempting the Sanitary District of Chicago from the operation of the act, as it is now, and put it on the square plane as all other municipalities in this State are, would that be such an act of the legislature as could not take effect until it had the assent of Chicago?

Mr. HULL (Cook). I should say so because that is on the general law, that is it would not.

Mr. KERRICK (McLean). Are you willing in the debate of this question for it to become a part of the record, as the mover of this matter, to so construe this section that after it is adopted, if it be adopted, that the

legislature of this State is empowered without regard to the consent or dissent of the City of Chicago or any other municipality in the State of Illinois to put the Sanitary District of Chicago under the same operation of the act as every other municipality is now under?

Mr. HULL (Cook). That would be my construction.

Mr. KERRICK (McLean). And it would not raise the question under this constitutional provision as to its right to accept or not accept the provisions of that act?

Mr. HULL (Cook). That would be my construction of this provision.

Mr. KERRICK (McLean). You say the provision as it now stands without some such admission by itself, by those seeking to have it adopted would probably be so construed by the Supreme Court of the State of Illinois?

Mr. HULL (Cook). That would be my construction.

Mr. KERRICK (McLean). What language is there that differentiates it from almost every other legislative act in this State? When this would be of such a character you could or could not take it, when it could be of such character that you could refuse to act? I ask what would be the differentiation between the ones you would have to accept and those you might choose to accept or not?

Mr. MILLER (Cook). May I ask the gentleman a question, what you are seeking is that the City of Chicago, or the Sanitary District, if it is embodied with the city, shall be under the general law of the State, isn't that it?

Mr. KERRICK (McLean). Yes, and the State can impose legislation, such as it sees fit upon the operation or the matter of the disposal of the sewage of Chicago?

Mr. MILLER (Cook). What is there in section six that seeks to exempt Chicago from the general laws, laws applying to all the State?

Mr. KERRICK (McLean). But might you not claim, and wouldn't it be a very serious question as to whether that was a general law or not?

Mr. MILLER (Cook). Where the Utilities Commission is given power to regulate all sewage disposal in all of them?

Mr. KERRICK (McLean). That is not the question; the question is whether under section six you would have the right to say you are prohibited from imposing on Chicago such legislation as that because of the language of this section, the General Assembly may enact special or local laws relating to the affairs of the City of Chicago but such laws shall not become effective, etc.

Mr. MILLER (Cook). Could anybody contend that a law which applies to every municipality in the State applies only to Chicago.

Mr. KERRICK (McLean). The law now exempts the City of Chicago; specializes as to the City of Chicago. It does not do it in terms of population either. It selects a certain district, so far as I know, I may be wrong about this, I have not been actively engaged in general practice for some years back, so far as I know the general limitation—which our State Supreme Court first decided was not constitutional and then decided it was—but so far as I know nearly all of the legislation has been passed on the description by population, as special legislation, and I would call a Constitution special legislation. Now then in the case of the Sanitary District, as I recollect the act, the population is not referred to at all, it picked out one of the enterprises or functions of the city and I don't know whether it has been passed on yet by the Supreme Court, I don't know whether that is special legislation or not, but it is a city instrumentality and it is local. Is there any reason why you cannot just as well object to the imposition by statute by the State of Illinois to take care of your sewage some other way than by running it down the Illinois River, wouldn't that be done in case the Supreme Court holds that the exception in that statute was not Constitutional? Wouldn't that be just as local as anything else which functions in the City of Chicago? Wouldn't it come within the meaning of section six, which gives you the privilege of accepting or not accepting anything in the way of a statute?

Mr. MILLER (Cook). Suppose the law was amended to be universal, could anybody say that that was special legislation?

Mr. HULL (Cook). Senator Kerrick wants an admission for the record; that is not special legislation.

Mr. KERRICK (McLean). That has already been made, but that does not always avail before the Supreme Court.

Mr. MILLER (Cook). For my part I would admit that there is no possibility of any other construction.

Mr. TODD (Peoria). I move that the committee do now arise, report progress and ask leave to sit again.

(Adopted.)

President Woodward presiding.

Mr. WILSON (Cook). Committee of the Whole having under consideration the report of the Committee on Chicago and Cook County begs leave to report progress and asks to sit again.

(Adopted.)

Mr. DUPUY (Cook). The schedule committee submits a report on Proposal 297.

(Accepted.)

Mr. HAMILL (Cook). I move that the convention do now recess until nine o'clock tomorrow morning.

(Whereupon an adjournment was taken until 9 o'clock a. m. Wednesday, November 24, 1920.)

WEDNESDAY, NOVEMBER 24, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The journal of November 22d was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the journal of Monday, November 22, 1920, will stand approved.

Reports of committees. Motions and resolutions. General orders of the day. The convention will resolve itself into a Committee of the Whole for the purpose of further considering the report of the Committee on Chicago and Cook County. Delegate Wilson of Cook is delegated to act as chairman of the Committee of the Whole.

(Whereupon the convention resolved itself into a Committee of the Whole with delegate Wilson presiding.)

Mr. HULL (Cook). Mr. Chairman, the pending question yesterday when we rose and reported progress was an amendment offered by myself for the purpose of reconciling the supposed inconsistency between section 6 of the report of the Committee on Chicago and Cook county and the warehouse article. Reflection has convinced me that there is no inconsistency between section 6 and the warehouse article, and that the amendment which I proposed will simply confuse the situation by seeming to imply that there is an inconsistency between them and an inconsistency which would run also to other matter. I believe that the provisions in section 6 which refer to the government and to the affairs of the City of Chicago do not touch any such matters as the right of the State to regulate the business of warehousemen in the city, and to regulate any other line of business in the State. However, there is an apprehension as to the meaning of the words in this section to which I have referred, and for the purpose of clarifying the situation, I desire to withdraw the amendment which I offered, and I will, if it is withdrawn, present another which I think will perhaps give a clear understanding of the significance of this section. I ask leave, therefore, to withdraw the amendment in question.

(Consent granted.)

Mr. HULL (Cook). I offer the following amendment:

"Amend section 6 of proposal 385 by striking out the words 'government or to the' where they appear in line 2 and insert the word 'governmental.'"

So that it will read now: "The General Assembly may enact local or special laws relating to the governmental affairs of the City of Chicago, but such laws shall not become effective until consented to by the city."

The amendment should also be carried down to line 5. "A law which at the time of its enactment is applicable to the governmental affairs of no other city than the City of Chicago shall be deemed a local or special law."

CHAIRMAN WILSON. Gentlemen, the question is upon the adoption of the amendment to section 6.

Mr. JARMAN (Schuyler). I would like to ask the chairman a question. What do you mean by "governmental affairs?"

Mr. HULL (Cook). Well, one matter that was suggested to me is the matter of taxation. For instance, in section 1 of the article it is provided that the city may assess and collect taxes for corporate purposes only as authorized by law. Now, it is quite probable that there would have to be special legislation with reference to taxation so far as the City of Chicago

is concerned. That would be one instance of what we have in mind. It has been suggested, too, that it might be desirable at some time to amend the Local Improvement law with reference to the City of Chicago. The Local Improvement law is not a law which can be superseded by the powers in section 1 to the City of Chicago, because anything that provides for liens upon real estate is not a matter of local government within the common acceptance of that term.

It might, therefore, be desirable to amend the Local Improvement law so far as the city was concerned, and have it only apply to the City of Chicago in some important respects. That would be special legislation which would affect the governmental affairs of the City of Chicago.

Mr. JARMAN (Schuyler). Well, then, these words, "governmental affairs" would include the organization of the city and also the powers, wouldn't it?

Mr. HULL (Cook). Yes, it would, and the powers of the city.

Mr. JARMAN (Schuyler). Then it would not be subject to law. You have got in this article also now that the legislature cannot pass any law affecting the organization or framework of the government, that is settled, either general, special or otherwise. That is in here. Then the effect of this would be simply with reference to the powers of the city.

Mr. HULL (Cook). That would be the effect of it in all matters concerning community interest.

Mr. JARMAN (Schuyler). Well, it don't say that.

Mr. HULL (Cook). That is the governmental affair. I have tried to illustrate what I mean by the instances I have given.

Mr. SUTHERLAND (Cook). Mr. Chairman, I think it should be made clear that the chief purpose of this section is to provide an easy, quick method of amending the city charter in case some special legislation of that kind may be necessary without going to the trouble and expense of a charter convention, and it is also desirable that such laws passed specially for the City of Chicago under the new section 6, as they would be if passed under the present section 34 of article 4, should not become effective until consented to by the city. It seems to me that we need to have this power and also this check, and that the words "governmental affairs" now sufficiently narrows it, so that there is no danger that the city could disregard general laws. In fact, it could not disregard general laws under this section.

Mr. MILLER (Cook). Mr. Chairman, might I give my explanation, as I understand it, briefly, of the necessity of section 6 and the innocuousness of it so far as the State is concerned? It is not intended to, and in my opinion does not, in any way prevent the State from regulating an industry which happens to exist only in Chicago, by State law. Under section 1 all the powers of the City of Chicago are subject to existing or future general laws. In the cities and Villages Act there are 98 sub-heads under section 62, and there are hundreds of divisions in the other hundreds of pages of section 62 of the Cities and Villages Act which apply to all cities in the State. Now, under section 1 Chicago cannot exercise any power inconsistent with any of those provisions, numbering hundreds, because they are general and apply all over the State. It always has been necessary, and it will in the future be necessary, to make some laws which give Chicago some powers that are not given to the balance of the State, because the balance of the State don't want them and Chicago needs them. It has been necessary to do that in the past, and it has been done by classification. Here we give the power to do it directly. It is necessary that the legislature have the power because Chicago will need it, and at the same time it is only right and fair that the legislature should not be permitted, without Chicago's consent to pass legislation hostile or which Chicago deems is hostile legislation, special only to the City of Chicago, and not applicable to any other city in the State.

Mr. FIFER (McLean). May I ask the gentleman a question? I hope this will be put into such shape that I can vote for it. I have no purpose to block these proceedings, or the adoption of this report, if it gets into

proper shape. Should this proposition become a law, included in section 6 would the State of Illinois have any right to go into the City of Chicago and regulate fire escapes?

Mr. MILLER (Cook). By general law, yes, certainly.

Mr. FIFER (McLean). By general law not assented to by the City of Chicago?

Mr. MILLER (Cook). Oh, yes, by general law, certainly. We have now a fire escape law applicable to all the cities of the State.

Mr. FIFER (McLean). Would it have the right to go into the City of Chicago and regulate the management and the running of theaters, how crowds should go in, and how they should come out, for the safety of the people, that the doors should swing out instead of in?

Mr. MILLER (Cook). By general laws, yes.

Mr. FIFER (McLean). Well, then, if they could do that by general law, what is the need of saying in this section they shall pass no local or special law which is applicable to Chicago alone without the consent of Chicago?

Mr. MILLER (Cook). Well, suppose that they should pass a law applicable only to cities of over 200,000 people, which was plainly a hostile law, which said, for instance, that the Chicago city government should be so framed that it would be absolutely obnoxious to the people of Chicago?

Mr. FIFER (McLean). Well, that is some reason. Now, my position on this proposition is this, that if this amendment is adopted, I am a little inclined to believe, although I am not clear in regard to that, that it will remove the objection urged by me to section 6 on yesterday, and I think there is very grave doubt as to whether it will or not, and having these doubts, I find myself unable to vote for the proposition. It was suggested by the chairman that he would take the opinion of the Attorney General of the State. I told him that would be satisfactory, and I thought if we had the opinion of the Attorney General of the State in the record, if there was ever any question about it hereafter, the courts would interpret the provisions of section 6 in view of the opinions of the members of the Constitutional Convention. That is the general rule of law. However, our court has said repeatedly that that is not decisive; that the people who adopted the Constitution may have had a different view, but I think there would be no question if they would get the position and the opinion of the Attorney General and incorporate it in the record, that the courts would undoubtedly construe it as did the Attorney General.

Mr. SUTHERLAND (Cook). Mr. Chairman, will the distinguished delegate from McLean yield to a question? Governor, you are familiar with section 34 of Article 4 of the present home rule provision for Chicago, special charter provision in the Constitution for the City of Chicago?

Mr. FIFER (McLean). In a very general way I am. I cannot hardly tell you what it is now.

Mr. SUTHERLAND (Cook). Well, it provides that no law shall be passed under that section without being referred to a vote of the people, and in that way negatives special legislation without local consent. Now, the last sentence of that section reads: "And the General Assembly may pass all laws which it may deem requisite to effectually provide a complete system of local government in and for the City of Chicago." Do you think that section 6 is any broader than the present provision of the Constitution which I have just read?

Mr. FIFER (McLean). I do, yes, in a way, and in that provision just read of the Constitution, it provides that the General Assembly shall provide.

Mr. SUTHERLAND (Cook). That is all this does.

Mr. FIFER (McLean). No, it does not. Your whole scheme embodied in this proposition is to make it constitutional instead of statutory. You are going to have the self-government there that is beyond the reach, in a measure, of the General Assembly. The section of the present Constitution which you read contemplates that the city government of the City of Chi-

ago should be at all times subject to the control and regulation of the General Assembly. That is the distinguishing difference.

Mr. SUTHERLAND (Cook). We have already passed on that part of it. Now, this part is purely in accord with the present provisions of the Constitution. It simply says that the General Assembly may enact local or special laws relating to the government affairs of the City of Chicago, and that such laws must be consented to by the city, and your present provision says that the General Assembly may pass all laws—it does not even limit it, as much as we now limit it here—which may deem requisite to effectually provide for a complete system of local government in and for the City of Chicago, which also must be subject to local consent.

Mr. FIFER (McLean). You lose the point on that, that that was a government by the General Assembly provided for there, while this is a government by the Constitution, and placing yourself beyond the reach of the General Assembly. My notion is, while I am with you on this proposition, I am going farther than my judgment would permit me, relying upon the good sense and judgment of the men who are back of this movement, and I desire to extend to Chicago all that I think should be extended. Now, my own judgment is that you are making a mistake in having a Constitutional government for Chicago and trying to separate it from the rest of the State and taking it out from under the control and authority of the legislative body of the state. I think if you provided here something after the other fashion, making it a little more rigid, as the section from which you read, delegating to the legislature the right to make a special charter of some kind for the City of Chicago, in that way the General Assembly could do it, and that fact might be greatly to your advantage.

If it is constitutional and it don't work right, you will have great trouble. But, as I said, I am not hostile to your scheme, and I am going to support that as far as my judgment will permit.

Mr. JARMAN (Schuyler). I would like to ask the gentleman from Cook a question. You referred to the constitutional amendment of 1905. Don't you think that section 6 here is much broader than the constitutional provision of 1905?

Mr. SUTHERLAND (Cook). Section 6 by itself?

Mr. JARMAN (Schuyler). Yes.

Mr. SUTHERLAND (Cook). Yes, it is broader.

Mr. JARMAN (Schuyler). Let me read it, please: "And the General Assembly may pass all laws which it may deem requisite to effectually provide a complete system of local municipal government." Now, the next clause is: "No law based upon this amendment in the Constitution affecting municipal government of the city shall take effect until such law be assented to by a majority of the legal voters of the said city voting on the question."

Now, that refers back to municipal government. Doesn't that evidently refer to the machinery and framework of the government and, not to the powers?

Mr. SUTHERLAND (Cook). No, I think not. That, I think, has not been the intention.

Mr. JARMAN (Schuyler). That is the way I construe it.

Mr. SUTHERLAND (Cook). It seems to me that all that this does is to a little more than retain the present possibility of the General Assembly having power to pass special laws for the City of Chicago, which it now has, subject to the local consent which is now required, and that we pass the question of constitutional home rule, and have granted a very limited degree of constitutional home rule in the preceding sections, and that practically all that section 6 does is to retain the possibility of legislation by the General Assembly and local consent practically, as is now provided in section 34.

Mr. GRAY (Adams). Mr. Chairman, there has been much said during the discussions of this body relative to keeping the State supreme in all matters. It seems to me that this article 6 would be different from any

constitutional legislation ever enacted by the people of any State, namely, that there should be provided in the Constitution of the State of Illinois provision for the General Assembly making laws that had to be accepted or rejected by some municipality in the State. I do not care to discuss that subject, but it seems to me to be so unwise and so out of harmony with constitutional enactments, that without any further discussion I shall be obliged to vote against this section.

Mr. MILLER (Cook). Mr. Chairman, to satisfy the gentleman, if I can, who has just spoken, I want to say this, he is mistaken in saying that it is a provision that is unprecedented. This, taken together with sections 1 and 2, constitute the mildest dose of local home rule that any Constitution has ever offered that pretended to give any constitutional home rule. For instance, in Ohio legislature is by the Constitution forbidden to touch anything relating to the local affairs of any municipality. Now, this Constitution specifically saves to the legislature the right to govern any purely local affair of the City of Chicago, provided it is by general law, and also goes further than that and gives the legislature the right to govern the purely local affairs of the City of Chicago by special law, provided that is sanctioned by the people of Chicago.

Mr. GRAY (Adams). That is just the point at issue. It seems to me like it would have a very unfavorable impression upon the people of the State. A law passed by the legislature to be approved by any municipality of the State would place the municipality, so far as that special law is concerned, superior in legislative power to the people of the State.

Mr. MILLER (Cook). May I ask a question? Does this Constitution anywhere give the legislature the right to pass any special law for your locality without your consent?

Mr. GRAY (Adams). No.

Mr. MILLER (Cook). Well, why should it have the right to pass any special law concerning the local affairs of Chicago without Chicago's consent? Why should Chicago be in a worse position in that regard than you are?

Mr. GRAY (Adams). But the point that seems to me to be very potent is that the legislature ought not to pass any law at any time, or for any place, that is to be accepted or rejected by a municipality.

Mr. MILLER (Cook). Then let me ask a question: Does this Constitution propose to give the legislature any right to pass any special law concerning your home town? It does not, does it?

Mr. GRAY (Adams). No, sir.

Mr. MILLER (Cook). Then I do not see why it should be given any right to pass any special laws hostile to Chicago without Chicago's consent.

Mr. GRAY (Adams). I do not see the necessity of this section.

Mr. MILLER (Cook). I will try to explain it, that Chicago may need some special legislation concerning her local affairs. She has heretofore in many instances had legislation that the rest of the State did not want and would not have. It was necessary because of her peculiar location, to be given special power. Now, when we are giving the legislature the right to pass those special laws, they should not be hostile legislation.

Mr. GRAY (Adams). Certainly not. If only special laws are meant.

Mr. MILLER (Cook). That is all this means.

Mr. TAFF (Fulton). May I ask the chairman a question? Under section 6, is it the intent of the committee to obtain additional powers for the City of Chicago other than any powers which are mentioned in other sections of the proposal?

Mr. HULL (Cook). I am not sure that I apprehend the full purport of the question that you ask. Section 6 is intended to be an open door for such legislation relating to the governmental affairs of the City of Chicago as from time to time may be needed, but it is intended to protect the city from special legislation which is hostile and simply put on the city in a hostile spirit, and that is all.

Mr. TAFF (Fulton). Or is it more the intention of the section to grant to the city the right to administer whatever powers they may have under this article, free from any action of the legislature, without any restrictions by the legislature in the administration of its powers?

Mr. HULL (Cook). In section 1 we are given powers, but as has been previously stated, there is reserved to the State the power by general law to overrule the exercise of any of those powers, and it is not intended by section 6 to alter or abridge that right.

Mr. TAFF (Fulton). Then under section 6 it is not the intention to give to the City of Chicago additional powers, but only the right to administer free of any action of the legislature the powers which are given it under any other section in this article, is that right?

Mr. HULL (Cook). I do not get it the way you ask it.

Mr. TAFF (Fulton). Well, there is a difference between the administration of the powers, and the powers themselves, is there not?

Mr. HULL (Cook). Well, there may be.

Mr. TAFF (Fulton). Under many of the sections of the present laws powers must be administered in a certain specific manner, must they not?

Mr. HULL (Cook). Yes.

Mr. TAFF (Fulton). Now, is it the intention of this section to eliminate the specific manner in which those powers might be exercised, and give the City of Chicago free rein to exercise those powers in any manner it saw fit?

Mr. HULL (Cook). Will the gentleman illustrate his question rather than put it in that abstract form? I think it will be easier to answer. I am not sure, unless he gives it in some form that is illustrative, exactly what he means.

Mr. TAFF (Fulton). Supposing the City of Chicago desired to employ a city manager. Now, in the exercise of its powers to manage its city under this section I assume that it could hire a city manager and delegate to him such powers as it desired.

Mr. HULL (Cook). It might provide by its charter for a city manager.

Mr. TAFF (Fulton). Supposing they didn't do it, couldn't they still under this section employ a city manager?

Mr. HULL (Cook). You mean couldn't they under this section practically arrive at a change in charter provisions by accepting the legislation passed by the legislature?

Mr. TAFF (Fulton). No. Independent of any legislation with reference to the manner in which it exercised its power, through a city manager, through a mayor, through a board of commissioners.

Mr. HULL (Cook). You say suppose they don't have a charter convention. Then they can do this, is your question? Couldn't the legislature by a special act applicable to the City of Chicago provide for a city manager for the City of Chicago which the City of Chicago through its council and by a referendum vote, as provided in this section, could accept? I think that could be done. Sections 7 and 8 provide for a provision for referendum.

Mr. RINAKER (Macoupin). Mr. Chairman, I am afraid I have talked enough about this, but I haven't made myself plain evidently as to the criticism that I have of this section, and it seems to me still that all that has been said about it, that it is a clear restriction upon and contradiction of section 1. Any law that may be passed limiting the grant as contained in the first sentence of section 1 is a law applicable to the government or the affairs of the City of Chicago, and if so, it is by the terms of this section not effective until it shall be approved by the city by referendum or otherwise.

Mr. HULL (Cook). I think you are mistaken in that statement. You say "any law." Now, a law which is a general law applicable to all could not be affected by section 6.

Mr. RINAKER (Macoupin). You cannot limit Chicago unless you do it by a law under section 1, and you have the right to do that. Now, the

definition that you make of local laws is a law that applies only to the City of Chicago. The terms are directly contradictory, as I understand them.

Mr. MILLER (Cook). May I ask the gentleman a question? Perhaps we can get a clear understanding of this. Let us take an illustration: Under section 1, take one of the powers, for instance, 98 enumerated powers under section 62 of the Cities and Villages Act. Now, it is clear, isn't it, that under section 1 every one of those enumerated powers are applicable to every city in the State, including Chicago.

Mr. RINAKER (Macoupin). It would be, except as you here grant the City of Chicago full and complete powers of local self-government.

Mr. MILLER (Cook). No, you misinterpreted that yesterday, and the article as originally written said this, "subject to existing or future laws," and that is exactly what the amendment is intended to mean, and if it does not mean that, it has got to be changed. Now, with that explanation it is clear, isn't it?

Mr. RINAKER (Macoupin). It would be clearer, but you have abandoned that language, and you have used the other language.

Mr. MILLER (Cook). Now, that was abandoned on the suggestion of the chairman of the Committee on Phraseology and Style. It has been stated here in this convention yesterday, and is now stated again, that the intention was and is, and this committee does not want it any other way and won't consent to it, so far as they are concerned, in any way than that the powers given to the City of Chicago under section 1 are subject to all existing and future general laws.

Mr. JARMAN (Schuyler). It don't say general laws, does it?

Mr. MILLER (Cook). That is what it means, of course.

Mr. RINAKER (Macoupin). Well, it does not say it.

Mr. MILLER (Cook). Because laws must be general, except where otherwise specifically stated in the Constitution, and so when you say under existing laws, that means general laws.

Mr. JARMAN (Schuyler). Under the Constitution a special law can be passed except in those cases specifically indicated in the legislative article. That is my idea of it.

Mr. MILLER (Cook). What I mean is that in the legislative article it says that no special laws shall be passed, doesn't it?

Mr. JARMAN (Schuyler). Oh, no, except in certain cases.

Mr. MILLER (Cook). Yes, except in certain cases, and this is not one of them.

Mr. JARMAN (Schuyler). I think it would be.

Mr. MILLER (Cook). No. In other words, there isn't any doubt about this, I think, that under the Constitution all laws must be general, under our legislative article, except as therein specifically stated, or except as somewhere else specifically stated isn't that right?

Mr. JARMAN (Schuyler). Yes.

Mr. MILLER (Cook). Now, unless there is some statement either in that article or in this, that there may be special laws applicable to the City of Chicago, then they must not be, isn't that right?

Mr. JARMAN (Schuyler). I think not.

Mr. MILLER (Cook). Well, I cannot follow you there.

Mr. JARMAN (Schuyler). I think it is this way: You can pass a special law in any case not within those exceptions in the legislative article.

Mr. MILLER (Cook). No, you don't mean that.

Mr. JARMAN (Schuyler). I do mean that, because the exceptions are made for that purpose, the special local laws only apply to this section, and as to all other matters local the special laws can be passed.

Mr. MILLER (Cook). There is no exception to the general prohibition of special laws to cover a case like this. Now, however, I think that so far as that is concerned, we are getting into a discussion that is not pertinent. The purpose of section 1 is to grant no powers to the City of Chicago except subject to existing and future general laws, is that correct?

Mr. HULL (Cook). That is correct.

Mr. MILLER (Cook). All right. Now, then, if it is not so correctly worded, the Committee on Phraseology and Style have that statement of the intention and meaning and purpose of this report, and that being so, and that being made clear, and there being no dissent from any member of this committee, as I am sure there will not be, then it is clear that there is no contradiction in the mind of the gentleman from Macoupin between this and section 6.

CHAIRMAN WILSON. Are you ready for the question? The question is on the amendment to section 6.

The clerk will read the amendment.

(Amendment read and adopted.)

CHAIRMAN WILSON. The question is upon the adoption of section 6 as amended.

Mr. GALE (Knox). Before voting on this question, I would like to ask the chairman of the committee a question. Why should there be the provision, "the General Assembly may enact local or special laws relating to the government of the City of Chicago," at all? Is not the real object of giving Chicago this special charter to put it in such shape that no special laws may be enacted concerning the City of Chicago?

Mr. HULL (Cook). No. We cannot get in any shape where we may not need special legislation. The grant of powers in the first section relates only to matters of local self-government, and that has been interpreted in a way which is limited, and would not meet all of the needs of a great and growing community. It was suggested to me, for instance, by Mr. Hornstein, that we have said in the last sentence of the first section, "for corporate purposes only as authorized by law," and as a result there may be some need of special legislation for the City of Chicago from time to time in the matter of borrowing money, or the matter of taxation. I suggested a moment ago that there may be need for the amendment possibly of the local improvement law in a way relating only to the City of Chicago. That only could be done by general or special law. It might be that such an amendment would be objectionable to the down State members, and yet it might be that it might be desirable to have it amended from the standpoint of the city interest in connection with great improvements going on there. The powers conferred under the local improvement law are not powers of local self-government, simply for the reason that they provide for the creation of liens on property; and no law which provides for the creation and collection of liens on property is a law of local self-government. There might be cases of that kind. There may be need for powers of government, powers to be exercised in the City of Chicago of a general police character, which would be a little different from the powers exercised by other municipalities, and that might require special legislation. It was to meet situations of that kind that this section was introduced, but it was desired that in the exercise of the power of legislating specially for the City of Chicago, the city should be protected from hostile legislation.

Now, I do not apprehend that we are likely to have much hostile legislation. The city has been pretty handsomely treated in the past in the long run by the General Assembly, but at least we are entitled to the assurance that legislation of that kind shall not be passed against the wishes of the city, where it is peculiarly special legislation and does not affect the entire State. Have I answered your question?

Mr. GALE (Knox). Yes, sir.

CHAIRMAN WILSON. The question is upon the adoption of section 6. (Section 6 adopted.)

(Section 7 read.)

Mr. HULL (Cook). It has been one of the embarrassments to good administration and efficient municipal government in the City of Chicago that it has had so many taxing bodies in the city. It is the purpose of this section to prevent the increase of any of these taxing bodies without the consent of the city, and to prevent the extension or enlargement of any

of these municipal corporations without the consent of the city. I move its adoption.

Mr. HAMILL (Cook). If the General Assembly can with the consent of the city create an overlapping taxing body, there will be no limitation upon the debt incurring power of the municipality, will there?

Mr. HULL (Cook). Yes. There is provision further on that meets the question you have in mind, that no municipal corporation can be created that can incur debts in excess of the current revenues, or something to that effect. Section 16 it is, I believe.

Mr. HAMILL (Cook). Yes, that seems to cover it.

(Section 7 adopted.)

(Section 8 read.)

Mr. HULL (Cook). I move its adoption.

Mr. DUPUY (Cook). This article provides for the submission of numerous questions to the people for determination. Would these questions be submitted at special elections or the general election provided for under our draft in November? I desire to ascertain whether there would be an item of heavy expense involved in these numerous special elections, if they are to be so? It may possibly be desirable to provide that these should be submitted at the annual November election.

Mr. HULL (Cook). The consent of the city, whenever a referendum is had, would conform, of course, to the submission provided by the General Assembly, the city council, or the charter in the first instance. It is assumed that if a referendum is provided in the act of the General Assembly, it will designate the time when the referendum takes place. So, also, if it is required by the charter, it will take place at the time provided for in the ordinance of the city council, or in the charter.

Mr. DUPUY (Cook). That is undoubtedly true in the absence of any statutory provision stating when the election should be held. The point is whether it would not be well to provide in the Constitution, in order to avoid many special elections and a heavy item of expense, that these questions should be submitted at the annual election in November. Otherwise we are going to have a rather expensive procedure here in submitting these many questions at different times.

Mr. HULL (Cook). I would not consider it desirable to attempt to put that into this proposal.

Mr. CRUDEN (Cook). I would remind the gentleman that we have fixed in the election article one election day each year.

Mr. DUPUY (Cook). True, but for the election of officers.

Mr. CRUDEN (Cook). No, for all purposes.

Mr. HULL (Cook). Whether that provision in the article touching elections covers officers and all other questions, or officers alone, I do not know. But however that may be, which ever it covers, I would not want to foreclose the possibility of the submission at a special election if in the judgment of the council or the General Assembly or the charter, as the situation might arise, it seemed desirable that the general rule should be modified by the exigencies of the occasion. We cannot prejudice everything for all time in what we are doing here, and I would not want to make this proposal so inelastic that a variation from the time for submitting those referenda to the people could not be had.

CHAIRMAN WILSON. The question is on the adoption of section 8. (Section 8 adopted.)

(Section 9 read.)

Mr. HULL (Cook). I move its adoption. One of the subjects which has had very considerable discussion in the City of Chicago is the subject of the consolidation of local taxing bodies. There are 24 separate local governmental agencies within the city, expending public money. This includes 14 townships, 8 lying wholly within the city, and 6 partly within and without. It also includes parts of park districts, the library board, the board of education, the tuberculosis sanitary board, and others. We wish to bring about in due time a consolidation of these taxing bodies, or

make it possible to bring that about, into a single municipal government. It is hoped that when this can be done, it will simplify the matter of government, and add to the responsibilities of administration, and thereby make more efficient government at reduced expense. Two methods have been suggested; one to simply leave it open to the legislature to bring about a consolidation through legislation; and another to have it possible for the charter convention to bring about this consolidation. We have incorporated both methods into this proposal, as alternatives, simply because bringing this consolidation about in an effective way is a stupendous task.

We attempted to bring about the consolidation of some of them through legislation in 1907, and we submitted a bill to the voters of the city, and it was defeated. It is claimed—I do not know whether it is entirely true or not—that it was defeated partly as a result of the scramble of political organizations in the matter of redistricting and matters of that kind, to get into our charter bill. At any rate, it is a stupendous task, and we want the door open to bring it about, either through the charter convention or through a legislative act, so that we may in due course of time bring about some of these desirable results. This first section applies only to municipalities wholly within the city, and to overlapping townships.

CHAIRMAN WILSON. The question is on the adoption of section 9. (Section 9 adopted.)

(Section 10 read.)

Mr. HULL (Cook). I move its adoption. This and the next section refer to the Sanitary District and Forest Preserve District, and to their consolidation with the city. The succeeding section touches the adjustment of the equities of the tax payers in the territory lying outside of the City of Chicago, growing out of any such consolidation. Mr. Woodward of Oak Park, living in territory outside of the city, has approved both these sections. Mr. Miller and Mr. DeYoung both came from territory lying outside of the city, and I believe it was approved by both. I move its adoption.

CHAIRMAN WILSON. The question is on the adoption of section 10.

(Section 10 adopted.)

(Section 11 read.)

Mr. HULL (Cook). I move its adoption.

(Section 11 adopted.)

(Section 12 read.)

Mr. HULL (Cook). I move its adoption. This was drafted in this form after consultation with Mr. O'Brien, and it is believed to be adequate for the period between the consolidation and the time when the legislature could adjust the tax rate to the needs of the city. It will be observed it takes into account the taxes caused to be extended on the collector's warrants, rather than the tax levy, or rather than the amount actually collected. It takes the amount extended on the tax warrants rather than the levy, because the levy usually exceeds the actual demands of the municipality, and is usually scaled down under the Juul law. It necessarily takes an amount greater than that actually collected, because there are often failures to collect the taxes as extended. I believe it is a fair way of meeting the situation in question, and I move its adoption.

(Section 12 adopted.)

(Section 13 read.)

Mr. HULL (Cook). It has been suggested that this section should have added to it an amendment as follows:

"Amend section 13 of proposal 385 by striking out the period after the figures '1915' in line 7, and inserting the following: 'Or any amendment thereof'."

There has been one amendment, and there may be amendments in the matter of the tax rate that would be required if that action should come into effect. I believe the amendment suggested should properly be made.

Mr. HAMILL (Cook). Do you mean by that, that the act might be amended regardless of the provision of this article, or does your amendment relate only to amendments heretofore adopted?

Mr. HULL (Cook). That is all I would believe in providing for now.

Mr. HAMILL (Cook). You have not in mind that there might be amendments hereafter?

Mr. HULL (Cook). I should not be inclined to have it cover future amendments.

(Amendment adopted.)

CHAIRMAN WILSON. The question is upon the adoption of section 13 as amended.

(Section 13 adopted.)

(Section 14 read.)

Mr. HULL (Cook). This is the alternative proposition which I mentioned a while ago, practically the provision of section 33 of the present legislative article, and is intended to permit the legislature to provide for these consolidations if we cannot bring them about through the charter convention. I move its adoption.

(Section 14 adopted.)

Mr. DAWES (Cook). Mr. Chairman, I move that the committee do now rise and report progress. It has been the intention for some time to allow the members of this convention to be at home during Thanksgiving day. Many delegates have been obliged to leave already, and there are others who, if they do not catch the train leaving in half an hour, will not be able to get home tonight. Therefore, it seems to me, in order to accomplish the purpose that we have set for ourselves, and that we may have a vacation on Thanksgiving day, this motion ought to now prevail.

Mr. HULL (Cook). I think there are very few points of dispute, or possible points of dispute, in the remainder of the article, and I believe that if we could sit for another hour we could get through with most of the article. However, I do not want to act contrary to the wishes of a majority of the members of this committee in the consideration of these articles. If it is desired on their part to rise and report progress, and catch the train, I will also be on the jump to catch the train, but I would like to get through with this if we can, and I believe we can get through with most of it.

CHAIRMAN WILSON. The question is upon the motion to rise and report progress.

(Motion lost.)

CHAIRMAN WILSON. The clerk will read section 15.

(Section 15 read.)

Mr. HULL (Cook). I move its adoption. It is practically the provision of section 34 with reference to the debt after consolidation. From the best figures we can get, the borrowing power, with the retirement of serial bonds which will take place every year, will leave an estimated accrued borrowing power of from eight to ten million dollars. We felt that was adequate under all the circumstances.

(Section 15 adopted.)

(Section 16 read and adopted.)

(Section 17 read.)

Mr. HULL (Cook). If I may have a moment's indulgence, I desire to present an amendment to section 17.

Mr. MILLER (Cook). Mr. Chairman, section 17 ought to be pretty carefully considered and discussed. Under the present laws Chicago has its limit fixed at five per cent. That rate cannot be increased except by an amendment to the Constitution. This provides additional means for increasing the debt limit of the City of Chicago. That is, first, by an act of the General Assembly. Second, by a vote of two-thirds of the city council, and third, by a vote of 60 per cent, or three-fifths, of the voters of the City of Chicago on referendum. Now, that is a departure and a very important departure, from the present public policy of this State, and, as I have said before, it obviously needs the careful consideration of the convention. Of course, as the situation now is, there really is no limit to the debt creating power of Chicago or any other municipality, in the Constitution, because the legislature may create an overlying taxing district which will have also the five per cent limit, and the legislature may also raise the assessed valu-

ation to the true valuation, thereby doubling the debt creating power of any municipality. This, however, creates an additional means of raising the debt creating power by the City of Chicago, and inasmuch as this matter should be thoroughly discussed, my disposition is to favor this additional power because of the fact that we are going to have, if this Constitution is adopted, a very much larger proportion of our voters who are tax payers, and because it gives a means of passing on this question by the voters of Chicago, who are the people who are interested, and they are the only people who are particularly interested in it. The people down State are not.

In other words, if we want to meet the situation in this regard so as to increase Chicago's debt creating power, it is to be voted upon by a little less than half of the people of the State who are interested in it, and by a little more than half who are not interested in it.

Mr. DAWES (Cook). Do you regard this as an appropriate time to discuss and pass upon a matter of such importance?

Mr. MILLER (Cook). I do not, and for that reason I was about to renew the motion which was just made.

Mr. HULL (Cook). I ask that that motion be withdrawn temporarily, because I would like to submit an amendment so that the members of the committee can have it in mind, if they want to rise and report progress at this time, as a pending amendment to this section; and I also present the question I have in mind in offering the amendment, so that they can get the point of view. The amendment is as follows:

Amend section 17 by inserting before the words "General Assembly" in line 1 thereof, the following: "Subject to sections 8, 9, 10, 11 and 12 of the revenue article."

The Committee of the Whole, in consideration of the revenue article, adopted several sections, 9, 10, 11 and 12 particularly, which had to do with borrowing for the purpose of financing public utilities. When section 17 of this Chicago proposal was prepared, those sections had not been included in the report of the revenue committee, and unless some provision is adopted such as I have suggested in this amendment, there may be a question as to whether this section is in conflict with or takes the place of the sections of the revenue article, or whether they are paramount to this section. For the purpose of making it clear that for the purpose of going into the financing of public utilities, the municipality of the City of Chicago shall be confined to the provisions of the revenue article, I am offering this amendment.

Now, I withhold the suggestion of voting on it at this time, to permit Mr. Miller or Mr. Dawes to renew their motion at this time if they desire. I simply wanted to get the matter before the Committee of the Whole for its consideration, pending the rising of the committee, if it chooses to rise.

Mr. MILLER (Cook). Mr. Chairman, I move that the committee do now rise and report progress.

(Motion carried and President Woodward in the chair.)

Mr. WILSON (Cook). The Committee of the Whole, having under consideration the report of the Committee on Chicago and Cook County, reports progress, and asks leave to sit again.

(Report adopted.)

Mr. HAMILL (Cook). Your committee on Phraseology and Style desires to present two reports.

Your Committee on Phraseology and Style, to which was referred a proposal regulating warehouses (Introduction No. 372, Reference No. 11) as amended in Committee of the Whole, respectfully reports that it has considered such proposal and herewith sets forth in parallel columns said proposal as adopted in Committee of the Whole on the left and a substitute therefor as recommended by this committee on the right.

Resolved, That the following shall become a part of the Constitution of Illinois:

Section 1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

Section 2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than one hundred thousand inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots, shall not be mixed with inferior or superior grades, without the consent of the owner or consignee thereof.

Section 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse in regard to such property.

Section 4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination.

Section 1. Elevators and storehouses where property is stored for compensation are public warehouses.

Section 2. The manager of every public warehouse in cities of over one hundred thousand inhabitants shall post conspicuously each week, in the office of the warehouse, a sworn statement of the amount and grade of grain and also of the other property stored therein, and the warehouse receipts outstanding, and shall file a copy of the statement in a place designated by law. Changes in quantity and grade of grains stored shall be noted daily upon the statement in the warehouse. Unless the owner or consignee consents, different grades of grain shipped in separate lots shall not be mixed.

Section 3. The holder of a public warehouse receipt may always examine the property and the warehouse records thereof.

Section 4. Railroads and common carriers thereon shall, at the point of shipment, weigh or measure, and receipt for, the full amount of grain and deliver it to the consignee or owner.

Section 5. All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee at the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse coal bank or coal yard may be reached by the cars on said railroad.

Section 6. It shall be the duty of the General Assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the Constitution, which shall be liberally construed, so as to protect producers, shippers, consumers and others interested, and the enumeration of the remedies herein named shall not be construed to deny to the General Assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies.

Section 7. The General Assembly shall pass laws for the inspection of grain and produce and for the protection of producers, shippers, receivers and consumers of grain and produce.

Section 5. Railroads shall deliver grain to any consignee who can be reached by an available track, and shall permit connections so that any public warehouse, coal bank or coal yard may be reached by cars.

Sections 6 and 7 combined. The General Assembly shall give full effect to this article, and provide for the inspection of grain and produce, the protection of producers, shippers, consumers and others interested, and the prevention of fraudulent warehouse receipts. Nothing in this article implies a limitation upon the power of the General Assembly or abridges common law remedies.

Respectfully submitted,

CHAS. H. HAMILL,
GEORGE A. BARR,
THOS. RINAHER,
C. B. T. MOORE,
ELAM L. CLARK,
EUGENE DUPEE,

Committee on Phraseology and Style.

The report of the committee was ordered printed and Proposal No. 372 was placed on the order of second reading.

Mr. Hamill submitted the further report:

Your Committee on Phraseology and Style, to which was referred a proposal to provide for the separation of the government into three departments (Introduction No. 358, Reference No. 5) as amended in Committee of the Whole, respectfully reports that it has considered such proposal and herewith sets forth in parallel columns said proposal as adopted in Committee of the Whole on the left, and a substitute therefor as recommended by this committee on the right.

Resolved, That the following shall become a part of the Constitution of Illinois:

ARTICLE 3—DISTRIBUTION OF POWERS.

The powers of the government of this State are divided into three distinct departments—the legislative, executive and judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

The legislative, executive and judicial departments shall be separate, and no one of them shall exercise powers properly belonging to another.

Respectfully submitted,

CHAS. H. HAMILL,
GEORGE A. BARR,
THOS. RINAKEE,
C. B. T. MOORE,
ELAM L. CLARK,
EUGENE DUPEE,

Committee on Phraseology and Style.

PRESIDENT WOODWARD. Under the rules, the reports will be printed and placed on the order of second reading.

Mr. HAMILL (Cook). The members of the convention will remember that last spring before we adjourned, the matter of legislative apportionment was passed for future consideration under an understanding expressed by me on the floor that it would not be taken up until an opportunity for conference between the delegate from Will and myself had been had, and we had agreed. We have agreed that the matter should be taken up on Wednesday of next week at nine o'clock, and I understand that the matter will appear upon the calendar for that day.

PRESIDENT WOODWARD. The report of the Committee on Rules adopted by the convention provided that it might be placed upon the calendar subject to the call of Delegates Hamill and Barr. I believe that no further record is necessary to be made.

Mr. HAMILL (Cook). If a motion to place it upon the calendar is necessary, I will so move.

PRESIDENT WOODWARD. The chair does not believe the motion necessary. A motion to adjourn is in order.

Mr. SHANAHAN (Cook). I would like to announce a meeting of the Cook county members on next Tuesday at eight o'clock in room 310. I understand the members outside of Cook county are to meet at the same hour in another room.

Mr. BARR (Will). I sent out this morning a notice to the delegates outside of Cook county to meet Tuesday evening at 7:30 in the judicial department room, to take up the matter of apportionment which all of the members will receive at their homes.

Mr. SHANAHAN (Cook). Then the meeting of the Cook county members will be at the same hour in room 309, and notice will be sent out to that effect.

Mr. HAMILL (Cook). I move that the convention do now adjourn until 3 o'clock next Monday afternoon.

(Motion carried, and at 11:05 a. m. the convention stood adjourned until Monday, November 29, 1920, at 3 o'clock p. m.)

MONDAY, NOVEMBER 29, 1920.**3:00 o'Clock P. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The journal of Tuesday, November 23, 1920, was placed on the desks of the delegates on last Wednesday and is now subject to correction. There being no corrections proposed, the journal of Tuesday, November 23rd, will stand approved. Special orders of the day. Reports of standing committees. First and second reading of proposals. Motions and resolutions; unfinished business. Under general orders of the day, the Convention will resolve itself into the Committee of the Whole for the further consideration of the report of the Committee on Chicago and Cook county. The Chair delegates Delegate Wilson of Cook to act as chairman of the Committee of the Whole.

(Whereupon the Convention resolved itself into a Committee of the Whole with Delegate Wilson in the chair.)

Mr. HULL (Cook). As I remember it, when the Committee of the Whole rose last week, we were considering section 17 of the report of the Committee on Chicago and Cook county, and the pending question was an amendment to insert the words, after the figure "17," before the words, "The General Assembly," the following: Subject to section 8, 9, 10, 11 and 12 of the revenue article." So that the section would read:

"Subject to sections 8, 9, 10, 11 and 12 of the revenue article, the General Assembly shall have power to permit the City of Chicago to become indebted to an amount to be fixed by it in the aggregate exceeding the limit prescribed by this Constitution," etc.

The sections in question, to which I am referring in this amendment, are the sections which refer to municipal indebtedness in the revenue article. Section 8 is the one which fixes the limit at 5 per cent of assessed valuation, and the succeeding sections, 9, 10, 11 and 12, are the sections which were added by way of amendment to the revenue article in the Committee of the Whole. And I have introduced this amendment so that it may be perfectly clear that there is no conflict between those sections and this section; that those sections provide for an additional indebtedness to be incurred in Chicago and financing the ownership and operation of income producing public utilities, and they limit all additional indebtedness incurred for those purposes to the limitations of those articles, and this is intended to make it clear that no exception is made to the provisions of those sections in this section.

CHAIRMAN WILSON. The question is on the amendment proposed by Senator Hull.

(Amendment carried.)

Mr. HULL (Cook). I move the adoption of the section as amended. I think that the section itself is fairly clear to anybody who reads it. It requires that if the city wishes to exceed the limitation fixed by the Constitution, it shall require an act of the General Assembly, approved by an ordinance of the legislative authority of the city, agreed to by two-thirds of its membership, and by a favorable vote upon a referendum of three-fifths of the voters of the city voting upon the question. It would seem as though the proposal to permit the city to increase its indebtedness would be properly safeguarded.

Mr. SUTHERLAND (Cook). Mr. Chairman, I believe that if the amendment has been put in, there is a question as to whether or not we do not

permit the 15 per cent provided for in sections 9, 10 and 11 of the revenue article to be exceeded, as well as the 5 per cent provided for in section 15 of this article? I would like to have the chairman's opinion on that possibility.

Mr. HULL (Cook). No, it is intended to permit the 5 per cent of section 8 to be exceeded by the provisions of this section. The 15 per cent of real value covered by sections 9, 10, 11 and 12 are not intended to be disturbed in any way. And it is not intended that any additional borrowing power shall be incurred for the purpose of financing the income producing public utilities therein described. The particular provisions which are applicable in this section, and intended to be covered by this amendment, are the provisions that limit the borrowing for the operation of the particular kind of public utility therein enumerated under any other provisions than the provisions in those sections. I think that would be the natural way of construing the sections together.

Mr. SUTHERLAND (Cook). Mr. Chairman, I am pleased with the answer given to the question, but it seems to me that that should be made perfectly clear. Also, it occurs to me that it would be desirable to put in a further amendment fixing a period for which such excess of the 5 per cent limitation would stand, and within which there might be no further excession of the constitutional limit by the method proposed in section 17, and I would like to ask, Mr. Chairman, that the adoption of section 17 be postponed for a few moments until I can have an opportunity to prepare such an amendment.

Mr. HULL (Cook). I do not object to your offering that amendment if you want to do it, and discussing it.

I will ask that section 1 of article 2 of this Chicago and Cook county article be read.

(Section 1 read.)

Mr. HULL (Cook). Mr. Chairman, and gentlemen of the committee: This provides for a board of commissioners exactly as we have it today. It is not an ideal situation. It gives the territory outside the City of Chicago much larger representation in proportion to population than the city has, but for obvious political reasons it was not considered advisable to disturb the status quo, particularly in view of the fact that the article in a succeeding section makes provision for legislative action in changing the county government, just as was done in respect to the county article covering other counties. I move the adoption of this section.

Mr. HAMILL (Cook). To what section do you refer as permitting changes to be made?

Mr. HULL (Cook). Section 7. That substantially is the same provision as was introduced into the county article covering other counties in the State. We have practically modeled this Cook county article after that article, making as few changes as was necessary in order to leave open the door, at least, for modifications in county government, as experience seemed to require.

(Section 1 adopted.)

(Section 2 read.)

Mr. HULL (Cook). Mr. Chairman, I move the adoption of section 2.

Mr. CRUDEN (Cook). Mr. Chairman, in view of the changes made in the judicial article, does it not conflict with that to say "who shall be clerk of the county court?" The duties prescribed for the county court now in this Constitution falls to the clerk of the circuit court, in the judicial article.

Mr. CUTTING (Cook). Mr. Chairman, I was about to call attention to the same thing that Delegate Cruden has mentioned. The county clerk, of course, is retained in office, but the county court is merged in the circuit court, and all the duties that appertain to that court are now to be performed by the clerk of the circuit court.

Mr. HULL (Cook). I would, of course, accede to any amendment you might offer. It was not the intention to reinstate that office.

Mr. CUTTING (Cook). I move that the article be amended by striking out the words "who shall be clerk of the county court."

(Amendment adopted.)

CHAIRMAN WILSON. The question now is upon the article as amended.
(Section 2 adopted.)

(Section 3 read.)

Mr. HULL (Cook). Mr. Chairman, this is a continuation, practically, of the present arrangement. I move the adoption of the section.

(Section adopted.)

(Section 4 read.)

Mr. HULL (Cook). I move the adoption of the section, Mr. Chairman.

Mr. MAYER (Cook). I would suggest the insertion of two words after the preposition "by" in the third line. My suggestion would have section 4 read as follows: "The General Assembly shall by law provide for and regulate the fees of all the county officers of Cook county. All fees, allowances and emoluments and all interest on public funds received by or for any county officer shall be paid into the county treasury."

Mr. HULL (Cook). May I ask, Mr. Mayer, what would be the situation in which that phrase would apply?

Mr. MAYER (Cook). To avoid an emergency or a situation in which a county officer arranges that fees or interest is paid to somebody else. This makes it stronger, Mr. Hull, and avoids trickery.

Mr. HULL (Cook). I would have no objection to it.

Mr. HAMILL (Cook). I would have no objection to it.

Mr. HAMILL (Cook). Mr. Chairman, may I ask the mover of this amendment a question? If money should be received as interest by B for A, do you not think that under the wording as it now is, A would be held to receive it?

Mr. MAYER (Cook). Probably, yes, but it would be a preventive against trickery.

Mr. HAMILL (Cook). But you cannot write a statute into the Constitution.

Mr. MAYER (Cook). This is not a statute. The insertion of the words "interest received by or for any county officer shall be paid into the county treasury." Arrangements may be made by which fees, emoluments or interest are received by a third person for the office holder.

Mr. HAMILL (Cook). That would be by the office holder.

Mr. MAYER (Cook). If he did not actually receive it, it would not be. Supposing a sheriff or a county treasurer makes an arrangement by which interest is paid not to him but to a third person?

Mr. HAMILL (Cook). For his benefit?

Mr. MAYER (Cook). No.

Mr. HAMILL (Cook). Then it would not be covered by 4.

Mr. TRAEGER (Cook). The third party was not elected to the office; consequently he has no right to receive it.

Mr. MAYER (Cook). What I am seeking to cover is to prevent by trickery fees, emoluments and interest not being paid direct to the office holder, but to a third person.

Mr. TRAEGER (Cook). Let me ask a question, Mr. Mayer: By doing that would not that give the county treasurer or city treasurer a right to have a third party appointed to collect this interest, and if he does away with it, you cannot hold the sheriff or the treasurer or whoever he may be?

Mr. MAYER (Cook). Let me give you a supposititious case: Suppose a public custodian of funds himself receives no interest, but he arranges that the interest is paid to someone else? What I am after is to have that interest turned into the public treasury.

Mr. TRAEGER (Cook). And then let us assume that if such is the case, and his assistant receives that interest and makes arrangements with the parties who pay the interest, that it is carried other than being paid for the purpose of interest, how are you going to prove that he received the interest?

Mr. MAYER (Cook). We are now entering into a dispute as to how proof can be made. I presume that when men are put under oath, the truth will be elicited. I put before the body of the house the suggestion of trying

to prevent emoluments, fees or interest earned on public funds being kept out of the public treasury, and I suggested the insertion of the words "or for." I think, as Mr. Hamill suggested, that can be strengthened. "All interest on public funds should be turned into the public treasury," and perhaps, Mr. Hull, you will get more accurately what we are after, if it read, "All fees, allowances and emoluments, and all interest on public funds, shall be paid into the county treasury," if you eliminate the words "received by any county officer." It doesn't make any difference whether he has received or not received. What I am after is to get the interest into the public treasury, whether it is received by the official, or received by some one for him, or by an arrangement by which a third person receives the interest and no one receives it for him; and it seems to me that probably you can strengthen this language if it read as I have just suggested.

Mr. HULL (Cook). Mr. Chairman, the pending question is the motion to insert the words "or for."

THE CLERK. To strike out the words "received by any county officer."

Mr. HULL (Cook). Well, I did not know whether Mr. Mayer had made that motion or not.

Mr. MAYER (Cook). Mr. Hamill has raised the point that is well taken: Supposing the interest is not received for the county officer, but is under an arrangement received by a third person, as Mr. Traeger has suggested? We want to cover that.

Mr. HULL (Cook). You want to cover every instance where interest is received?

Mr. MAYER (Cook). All emoluments, fees and interest. I think you would improve it by eliminating the words "received by any county officer." I make the motion as a substitute for the other suggestion.

Mr. MOORE (Macon). Mr. Chairman, I happen to be a little bit in doubt as to what is meant here by "turning in all allowances or emoluments received by any county officer." The salary of an officer is a part of the emoluments, I believe, and there may be allowances besides. I would like to be enlightened on that subject.

Mr. MAYER (Cook). That is covered in section 3.

Mr. MOORE (Macon). I do not think so, sir.

Mr. MILLER (Cook). Mr. Chairman, it rather seems to me that the suggestion made by the gentleman from Cook, Mr. Mayer, does not quite cover the case: "The General Assembly shall by law provide for and regulate the fees of all county officers of Cook county. All fees, allowances and emoluments, and all interest on public funds, shall be paid into the county treasury." That, of course, does not say in so many words whose fees, allowances and emoluments are referred to, except by inference. Isn't it true that if we say that all of them received by any county officer, we also include any agent or anybody who receives them for that county officer or through any arrangements with him?

Mr. MAYER (Cook). I don't think so. Supposing a county officer does not receive it at all?

Mr. MILLER (Cook). Yes, but if he does not receive it, but it is received by someone else pursuant to an arrangement with him in cases where he ought to receive it, isn't the other man his agent, and hasn't the county officer in law received it?

Mr. MAYER (Cook). No, I doubt it. At any rate, I am trying to make it clear beyond peradventure, and the discussion shows the necessity, in my opinion, for amending this section. That covers everything, whether it is received by the sheriff or the county treasurer, or by the bailiff or court clerk.

Mr. DAWES (Cook). May I not ask you a question? Would that not also throw all interest on city funds into the county treasury?

Mr. MAYER (Cook). Well, you are speaking in this section of county officers.

Mr. DAWES (Cook). The expression is, "all interest on public funds."

Mr. MAYER (Cook). In the first sentence of section 4 you are speaking of county officers.

Mr. DAWES (Cook). I know. I think it ought to be "all interest on the county public funds" or "all interest on the county funds." I should like also to have a little further explanation of the significance of the word "emoluments." The inquiry of the gentleman from Macon is rather interesting on that point.

Mr. HULL (Cook). The word "emolument" was taken out of the old Constitution, and the old Constitution provides, "All fees, perquisites and emoluments above the amount of said salary shall be paid into the county treasury. The number of deputies and assistants of such officers shall be determined by the clerk of the circuit court." That is section 9 of article 10 of the old Constitution. I can see there is a little confusion from the use of the word "emolument," because the old language evidently contemplated the payment of these salaries out of these fees exclusively, and provided that anything received in addition to the fees, perquisites and emoluments should be paid into the county treasury.

Mr. KERRICK (McLean). Let me ask a question. What is the reason that in section 3 the provision that is now in the Constitution in section 9 of article 10 with reference to the compensation of these officers, is not used, "And shall be paid, respectively, only out of the fees of the office actually collected?" Why were those dropped here?

Mr. HULL (Cook). Why, then may not actually be sufficient to pay the compensations in question.

Mr. KERRICK (McLean). Well, would it not have been all right to say, "insofar as they are sufficient?"

Mr. HULL (Cook). Well, if it all goes into the county treasury, they will to the amount in which they come in be available for that purpose.

Mr. TRAEGER (Cook). Mr. Chairman, I probably can enlighten the gentleman from McLean. The old Constitution provides for the officer to be paid out of fees. The legislature later passed a law raising the salaries of the county officials because of the growth of the county. We will take, for instance, today the office of coroner. He receives a salary of \$9,000 per year. His fees will not exceed half of that amount. The result of it is that the balance has to be paid by Cook county. So I believe this arrangement, then fixed by law, and arranged so that the county makes payment, is much better, because today, take, for instance, the sheriff of Cook county collects quite a sum of money that he turns in to the county, but under the old law he has still got to go back to those fees and pay himself. It gives an opportunity to a public official who has a tendency to be dishonest to more or less juggle with the public funds. If he knows that his salary comes by the way of the county, the same as the county commissioner or other officers, why, he does not have to make two reports, but he makes one report of total receipts of his office to the county boards, and pays that money into the county treasury as often as is required by law.

Mr. KERRICK (McLean). But there is no provision made in this as to who shall pay these salaries in case they are not paid out of the fees.

Mr. TRAEGER (Cook). Oh, yes, "as fixed by law"; that naturally places the burden of paying the salaries on Cook county, the same as of other county officials.

Mr. KERRICK (McLean). I don't know. In the provision we made in the judicial department article with reference to justices of the peace, it was specifically provided that their salaries should be paid by the county. There is no mention who shall pay the salaries in this, just simply that they shall be fixed by law.

Mr. TRAEGER (Cook). You might add there, "paid by the County of Cook."

Mr. LINDLY (Bond). You think the State might have to pay those?

Mr. KERRICK (McLean). I don't have any real notion about it, but I don't know why that language was left out of this provision when it is in the present Constitution, and why we should in the judiciary provision provide specifically as to who shall pay these fees. They are not provided to be paid out of the fees of the office, neither were they in the case of the

justices of the peace, but in that case there was specific provision that their salaries shall be paid by the counties.

Mr. TRAEGER (Cook). We have no provision here who shall pay the county commissioners, nor the judges, only as fixed by law.

Mr. KERRICK (McLean). The county article also makes the same provision, and I see no reason why this should not follow the provisions in those other respects. The State fixes the salary. Ordinarily, whoever fixes the salary is the paymaster, unless there is something qualifying them.

Mr. MAYER (Cook). Mr. Chairman, I think I can clarify some of the questions which have been discussed. If you will turn to the caption, you will find that article 2 is dealing with the County of Cook; it is not dealing with the City of Chicago. And every section in that article has to do with the county affairs of Cook county, or the county officers of Cook county, so that there is no chance of any mistake or misunderstanding. And I now move, Mr. Chairman, that section 4 be amended by eliminating the words, "received by any county officer."

(Amendment carried.)

Mr. HULL (Cook). I move the adoption of the section as amended.

(Section 4 adopted.)

(Section 5 read.)

Mr. HULL (Cook). I move the adoption of the article.

Mr. MAYER (Cook). I make the same suggestion as to that article. I move to strike out the words, "received by him," so that it will read: "Every county officer of Cook county shall make a semi-annual report under oath of all fees, allowances and emoluments, and all interest on public funds as may be required by law."

CHAIRMAN WILSON. The question is upon the amendment to section 5.

Mr. MILLER (Cook). Mr. Chairman, doesn't that leave it ambiguous as to what fees, allowances and emoluments and interest each of the various officers of Cook county shall report on?

Mr. HAMILL (Cook). It is not doubtful at all. The sheriff will have to report on the county treasurer and all the rest of them. The county treasurer would have to report on the sheriff, and all the rest of them.

(Amendment lost.)

Mr. TODD (Peoria). I want to ask what is the purpose in allowing county officials to keep public funds for a period of six months after the fees are paid to them?

Mr. HULL (Cook). I don't see any license here to keep moneys for six months.

Mr. TODD (Peoria). It requires them to make a report every six months. Why don't they make a monthly report?

Mr. HULL (Cook). The question as to how long they can keep the money can be determined by law, unquestionably, but this requires a report at least every six months.

Mr. TODD (Peoria). I cannot see any purpose in allowing public funds to stay in the hands of an official unless he has some use to make of those funds, and if he is paid, and all his help are paid out of the public treasury, it seems to me that the funds should go into the treasury at least once a month.

Mr. HULL (Cook). The gentleman implies that there is in this provision requiring reports a license to keep for six months. I think that is an entire misreading of the provision. All it provides is that reports shall be made at least every six months.

Mr. TRAEGER (Cook). Mr. Chairman, I think the point that Mr. Todd raised is a very important point. The Chair will bear me out that he had troubles of his own when he was Comptroller of Chicago in getting the county treasurer to turn over, until he finally got so that he got a schedule, and then we didn't have so much trouble, but subsequent to that time we have read in the papers that they were slow in turning over, and I believe today that there are certain county officials that turn their money over only

when they make their semi-annual report. I know that used to be so in the coroner's office. They made a semi-annual report, and turned over whatever funds they had. I believe the clause in there requiring the turning over of all fees, interest, and so forth, held by any of those officers, should be made at least once every 30 days, and oftener.

Mr. HULL (Cook). Mr. Chairman, this is practically an adaptation for Cook county of section 13 where it requires that every person appointed or elected to an office in the State shall be required by law to make a semi-annual report of all fees and emoluments. We did not consider it a matter of profound importance whether we varied that to six months or two months or one month. We considered under any circumstances that the legislature would have the right to regulate the conduct of public officials, and to require more frequent reports, if necessary, and we therefore fixed the same period of six months as is now found in the present Constitution. Now, if the legislature wants to make a shorter period of report, it is up to the legislature to do it. We did not think it wise to insert a lot of statutory matter into the Constitution.

Mr. LINDLY (Bond). Under his Cook county provision would the legislature control?

Mr. HULL (Cook). I think they would as far as when the money shall be paid in, and how often it may be paid in.

Mr. SUTHERLAND (Cook). I was going to make a suggestion that I thought possibly the chairman of the committee would yield to, and it seems to me that it would make it perfectly clear. I would move to amend by striking out in section 5 the words "semi-annual" and to insert in line two, after the word "oath", the words "at least semi-annual."

Mr. HULL (Cook). I wouldn't have any objection to that.

Mr. SUTHERLAND (Cook). Or "make a report as may be required by law."

Mr. HULL (Cook). I think the phrase at the end of the section, "as may be required by law," would cover the whole thing. You might even strike out the words "semi-annual," and make it "reports under oath as required by law."

Mr. SUTHERLAND (Cook). I will move simply to amend by striking out the words "semi-annual" in line 5.

CHAIRMAN WILSON. Mr. Sutherland, may I ask a question? Have you not provided in one of the articles in your revenue committee with reference to this?

Mr. SUTHERLAND (Cook). I believe there is no provision now in the revenue article on that point.

Mr. HULL (Cook). Mr. Sutherland, if you will make your amendment to strike out the word "semi-annual," then include the addition of the letter "s" to the word "report."

Mr. SUTHERLAND (Cook). Then the word "semi-annual" should be stricken out, and the word "report" should read "reports."

Mr. HAMILL (Cook). Mr. Chairman, may I ask the chairman of the committee a question? If the amendment now proposed should carry, would this section confer any power upon the General Assembly which it does not have?

Mr. HULL (Cook). I don't think it would.

Mr. HAMILL (Cook). Would it limit the General Assembly in any respect.

Mr. HULL (Cook). I am not sure that I get your question.

Mr. HAMILL (Cook). Would it deprive the General Assembly of any power it would have if the section were not there?

Mr. HULL (Cook). To require reports from public officers?

Mr. HAMILL (Cook). No. Would this section deprive the General Assembly of any power which it would have if the section were not there?

Mr. HULL (Cook). I don't believe it would, Mr. Hamill.

Mr. HAMILL (Cook). Does it impose any duty upon any officer?

Mr. HULL (Cook). Only as required by law.

Mr. HAMILL (Cook). Does it alone impose any duty upon any officer?

Mr. HULL (Cook). Why, it has got to be provided by law, of course.

Mr. HAMILL (Cook). What does it mean then? If it does not limit the General Assembly, if it does not confer any power upon the General Assembly, and if it does not impose any duty upon any public officer, what is the use of abusing the English language and putting that in?

Mr. HULL (Cook). There are many things inserted in the Constitution that would not come up to your program of draftsmanship. We have not attempted to write the last word in legislative draftsmanship. We have simply appropriated the present Constitutional provision for this article.

Mr. MILLER (Cook). Mr. Chairman, it seems to me that if it is desirable that a provision be made for reports by county officers not less than once in six months, the amendment last proposed by Delegate Sutherland ought not to carry, that it ought to be amended, rather, by saving that every county officer of Cook county shall make a semi-annual report under oath not less than once in six months of all fees, allowances, and so forth. Then we have some provision in here which would mean something, which of itself, without any action by the legislature, would require a report at least every six months, and whatever the legislature might do would be in addition to that, but if, as Mr. Hamill suggests, the section should read as suggested by the amendment last offered, it would be equivalent to saying that the officers shall do what the General Assembly shall say they shall do, and that, of course, we all know without taking the section.

Mr. HULL (Cook). Mr. Chairman, if I understand the criticism of the gentleman from Cook, Mr. Miller, it is that the words "semi-annual" should be in here to insure at least that frequency in the making of reports in any form that may be required by law.

Mr. MILLER (Cook). Yes. As I understand it, this is now parallel to the section under the county article, and it was designed to insure by the Constitution a report as often as once in six months. If so, then I think the amendment offered by Delegate Sutherland should not prevail, because that would not do it.

Mr. SUTHERLAND (Cook). With the consent of the committee, Mr. Chairman, I will go back to my first motion, so that we will strike out the words "a semi-annual" in line 5 and insert in line 2 after the word "oath," the words "at least semi-annually." Now, that clears up any doubt, and it is in a way a limitation also.

Mr. TRAEGER (Cook). Mr. Chairman, will the delegate yield to a suggestion? I believe the suggestion made by delegates Hamill and Miller is a very good one. I believe this word "semi-annual" fixes at least some responsibility and should remain, but I would suggest that some additional clause be placed in there compelling all county officials to turn over all funds collected by them at least once every 30 days.

Mr. HAMILL (Cook). That ought to go in the preceding section.

Mr. TRAEGER (Cook). In saying that I want to refer to certain conditions that have existed, and our chairman, I expect is as well, if not better, posted than any man in this assembly on that very proposition. He finally made arrangements whereby they made an agreement with the county treasurer that he was to turn over funds at certain periods, however at all times at the mercy of the county treasurer. If he didn't do it, the best that he could do, or I, that held the position of Comptroller, would be to threaten litigation. Subsequent to that we have heard, within the last few months, that there has been a great deal of discussion and threats of commencing suit against the county treasurer for withholding funds. Therefore, I believe that it would place no hardship upon any county official to turn over every month all such funds as he may have collected, at least five or ten days after the first of the succeeding month—turn over all the moneys collected in the preceding month, to the county treasurer. I know I did it when I was sheriff. Every month, as near after the first as I could make up my collections, I would turn over that money, but I would make a semi-annual report under oath just the same. I think that would be a protection.

Mr. HULL (Cook). Mr. Chairman, may I ask what is the pending question now? Is it Mr. Sutherland's motion to amend by striking out the words "a semi-annual" and inserting the words "at least semi-annually" after the word "oath?"

Mr. SUTHERLAND (Cook). Yes.

CHAIRMAN WILSON. Senator Hull, before that question is put, as a member of the committee, and with your permission, I would like to say there is very much force in what Mr. Traeger just stated, and unless there is to be in this Constitution some declaration covering the ground which Mr. Traeger just brought to our attention, we should take care to insert such a provision.

Mr. HULL (Cook). I understand your point of view, Mr. Chairman, but I think if it is to be introduced anywhere, it should be introduced in another section and not in this place.

CHAIRMAN WILSON. Mr. Traeger, you heard the remark of the chairman of this committee on that question. Will you prepare an amendment covering your views?

Mr. TRAEGER (Cook). If that is not the proper place for it, I will let the chairman insert it wherever he believes it belongs, but I believe that something ought to be done along those lines.

CHAIRMAN WILSON. Will you prepare such an amendment, and confer with the chairman?

Mr. TRAEGER (Cook). Yes.

Mr. CRUDEN (Cook). Mr. Chairman, might I say a little something about this section before we go any further? If I thought brother Hamill required any help, why, I might say more, but he is quite handy at taking care of sections. If I had my way about it, I would take the last sentence of section 4 and add it to section 3. I think that is where it belongs. And then I would strike from section 5 the last words, "as may be required by law," and add the other part of section 5 to section 4. It would look a great deal better.

Mr. HULL (Cook). Mr. Chairman, I submit that that revision will be done properly by the Committee on Phraseology and Style, and that this is not the place to do the work of the Committee on Phraseology and Style. We can get at the substance of what we want. Now, Mr. Traeger is very insistent that there should be some provision here about how frequently the money should be paid into the county treasury, and that, if it goes anywhere, should go after line 4 in section 4, but it does not come in section 5 that we are now considering.

CHAIRMAN WILSON. The question then is upon the amendment to section 5 offered by Mr. Sutherland.

(Amendment adopted.)

CHAIRMAN WILSON. The question now is upon section 5 as amended.

(Section adopted.)

(Section 6 read.)

Mr. HULL (Cook). Mr. Chairman, Mr. Traeger and you just suggested the desirability of a provision requiring the turning in of the fees at least monthly. I think that if that goes in at all, it should go in after the word "treasurer" in line 4 of the preceding section, and I will ask, therefore, that we recur section 4 and ask a unanimous consent to reconsider that and insert the words "at least monthly" after the word "treasurer."

(Consent to reconsider granted.)

Mr. HULL (Cook). Mr. Chairman, does the record show the consent to return to that section and insert those words as amendments into the article?

CHAIRMAN WILSON. No. The committee has not heard the amendment.

(Amendment read.)

Mr. MILLER (Cook). I am wondering whether we are wise in inserting a provision that all fees shall be paid into the county treasury as often as once a month, into the Constitution. I am not familiar with the collection of fees by all departments of the County of Cook. It seems to me that that is rather lively work.

CHAIRMAN WILSON. It is lively, and it ought to be done.

Mr. MILLER (Cook). I am merely mentioning this as a matter of caution. I take it that the difficulty which the chair has experienced when acting as Comptroller of Chicago and also that Mr. Traeger has experienced, is not of paying in the funds to county treasurer, but the paying out of funds by the county treasurer, is that correct?

Mr. MAYER (Cook). Yes, sir. That is why this does not cover it.

Mr. MILLER (Cook). As I say, I have had no experience in this matter to qualify as a judge, but I am wondering if this is a workable proposition?

Mr. MAYER (Cook). Let me supplement what Mr. Miller has just said. The proposed amendment does not cover it at all.

Mr. HULL (Cook). I see the point. I withdraw the amendment.

Mr. MAYER (Cook). Because that would merely mean that the fees, emoluments and interest shall be paid. The trouble that Mr. Traeger has complained about is not with receiving fees, but with receiving taxes that are collected. The county treasurer is ex-officio county collector. He collects the taxes. A difficulty of which I am told—at least I hear about it—is that the county treasurer does not pay over frequently. Now then, this amendment would not cover it at all.

Mr. TRAEGER (Cook). This amendment would cover the various county officers turning their fees when collected into the county treasurer.

Mr. MAYER (Cook). That is a very small part of the revenue. The revenue is the amount received from taxes.

Mr. TRAEGER (Cook). But there will have to be some other arrangements made for the treasurer individually in disbursing his funds.

Mr. MAYER (Cook). The difficulty, Mr. Chairman, is in getting your vast sums of money which are collected, special assessments and taxes. The fees and emoluments probably are not 5 per cent of the total revenue. That sentence won't cover it at all.

Mr. TRAEGER (Cook). This part is all right as far as we have gone, Mr. Mayer. That part covers the end of the various county officials; that is what we were talking about. Now then, for the treasurer to distribute his funds to the respective taxing bodies will have to be covered by another clause coming under the head of treasurer.

Mr. MAYER (Cook). I thought you were troubled, Mr. Traeger, by the withholding of the large funds that were collected by the taxing offices? I think that the chairman of the committee ought to take a little time and draft an amendment which will cover this question, because you cannot do it in two or three minutes.

Mr. TRAEGER (Cook). Mr. Chairman, may I suggest that the chair appoint Delegate Mayer and such committee as he may see fit, to draft it?

Mr. HULL (Cook). Mr. Chairman, as a practical suggestion I hope that we can go ahead and approve the article just as we have it, as far as we have got it. Now, if there are practical suggestions that will make it a better article, why, certainly the Convention and the committee wants to have those practical suggestions, and they can be added to the article on second reading, but I believe it would be inadvisable to re-refer that to the committee and hold up the consideration of the article at the conclusion of the work of the committee at this time.

CHAIRMAN WILSON. If the chairman of the Committee on Chicago and Cook County will excuse the chair for a moment, I think the most important matter before the committee has been brought up by Mr. Traeger, and I hope that whatever you do about it will go into the first reading of the article on Chicago and Cook County.

Mr. HULL (Cook). Mr. Chairman, I think maybe Mr. Shanahan has a suggestion which would meet your views.

Mr. SHANAHAN (Cook). I would like to ask Mr. Mayer and Mr. Traeger if this would meet their views; in section 4: "All fees, allowances and emoluments and all interest on public funds and taxes shall be paid into the county treasury at least monthly."

Mr. MAYER (Cook). Mr. Shanahan, that won't cure the difficulty of getting it out of the county treasury.

Mr. SHANAHAN (Cook). You want distribution of the taxes?

Mr. MAYER (Cook). Yes. The City of Chicago is constantly howling that it is not getting its share of the money.

Mr. HULL (Cook). Mr. Chairman, may I ask Mr. Mayer a question? Isn't the point that you are interested in, the matter of the distribution of those taxes, a matter which can be handled by the legislature, that they can compel the proper distribution of those funds when they get into the treasury of the governmental agencies that are entitled to spend them?

Mr. MAYER (Cook). Oh, surely it can be done by the legislature, but the difficulty is that it never has received any such legislation.

Mr. HULL (Cook). I simply raise that point because however desirable it may be to enforce a prompt distribution of those funds, I raise the question whether we want to insert all those provisions in this article.

Mr. SUTHERLAND (Cook). Mr. Chairman, this question came up before the Revenue Committee and was investigated and discussed. For a time we had in our tentative draft of the revenue article a provision requiring the payment every 30 days of funds held by the county treasurer—our provision, in fact, was at first 60 days, and that was stricken out when it was found that a law is already on the statute books requiring such payments to be made every 30 days. If the legislature has full power to deal with this question, it seemed to the revenue committee unwise to put any such provision into the Constitution.

Mr. HULL (Cook). The question is, is it not still the amendment which I offered?

Mr. CRUDEN (Cook). You withdrew it.

Mr. HULL (Cook). I did, but I will introduce it, if desired.

Mr. MAYER (Cook). I hope, gentlemen, that the amendment will not pass. Surely I need not state that I am in favor of getting all the moneys into the proper channels at once, but you put into this section by interpretation that the substantial funds need not be turned in monthly. You are putting in here about turning over the fees, emoluments, and so forth, but the amount of taxes you are silent on. The treasurer might say, "I am turning over fees and emoluments, but the Constitution is silent on the amount of taxes I collected." What we are after is distribution by the treasurer.

Mr. HULL (Cook). I understand that.

Mr. MAYER (Cook). I return, Mr. Chairman, to the suggestion that the matter that is under discussion be recommitted to the Revenue Committee, or to the Committee on Chicago and Cook County to prepare and submit an appropriate section.

Mr. LINDLY (Bond). Mr. Chairman, if we are going to go through with this proposition, we ought not to recommit it; we ought to fight it out here on the floor.

Mr. GALE (Knox). Mr. Chairman, which section are we now considering?

CHAIRMAN WILSON. By unanimous consent section 4.

Mr. GALE (Knox). Mr. Chairman, I move that all of section 4 after the words "Cook county" in the second line thereof be stricken out. As a matter of fact, it seems to me, Mr. Chairman, that the Revenue Committee did the right thing when they refused to put in a provision along this line of sections 4 and 5 into the Constitution in the revenue article at all, because the legislature has power to govern that matter, and has already required by statute the payment of these fees within 30 days after their collection. Now, why shouldn't it be left that way?

CHAIRMAN WILSON. May I be permitted to answer your question? There have been laws before the present one providing for the turning over of the funds by the county treasurer I think every 60 days, but the law never was complied with. I remember of talking with the chairman of the Revenue Committee about this very matter. He received me very courteously, and I supposed you were going to cover it in your revenue article, but Mr. Sutherland just advised me that you called my attention to the fact which you now stated, that there is a law on the statute books covering this point. I am so afraid that the law may not be obeyed that I kind of have a feeling

of sympathy for Mr. Traeger, and I know he does for me, that something more binding than the present law, which is not enforced, might be wise to insert into the Constitution.

Mr. GALE (Knox). Mr. Chairman, may I ask if it is the opinion that it would be more likely to be enforced if the words were in the Constitution than if the words were not in the Constitution?

CHAIRMAN WILSON. You can ask the question but I am not able to answer it.

Mr. MILLER (Cook). Mr. Chairman, believing that section 4 meets all requirements except those that may be handled by the legislature, I withdraw my unanimous consent to further consider section 4.

CHAIRMAN WILSON. The question is upon the amendment offered by Mr. Gale.

Mr. HULL (Cook). Pardon me, wasn't there a question before this house before that?

CHAIRMAN WILSON. Yes, I believe that is right. The amendment of Mr. Hull is before the house.

(Amendment adopted.)

CHAIRMAN WILSON. Now, the question will be upon the adoption of section 4 as amended.

Mr. GALE (Knox). Now, Mr. Chairman, I will again offer the amendment which I did before, that all of section 4 be stricken out after the words "Cook county" in line 2 thereof.

CHAIRMAN WILSON. The question is upon the amendment offered by delegate Gale.

Mr. SUTHERLAND (Cook). Mr. Chairman, will the delegate from Knox make his amendment to strike out merely the second sentence of section 4, leaving, as it seems to me, a desirable limitation?

Mr. GALE (Knox). That is to say, with reference to the compensation of any elective county officer? Isn't there a general clause in the executive department article, as we have now passed it, which covers that?

Mr. SUTHERLAND (Cook). If it covers county officers, as well as all State officers, that would cover it; otherwise, it would not. I am not familiar with the executive article, I do not recollect what that provision is.

Mr. GALE (Knox). Very well, Mr. Chairman. For fear that is not covered, I will withdraw the amendment that I have offered, and offer instead an amendment that the second sentence of section 4 be stricken out so that section 4 shall read: "The General Assembly shall by law provide for and regulate the fees of all county officers of Cook county. The compensation and any payment to the officer shall not be increased or diminished during his term of office."

CHAIRMAN WILSON. The question is upon the amendment to strike out the second sentence in section 4.

Mr. MAYER (Cook). Mr. Chairman, this report is the report of the Chicago and Cook County Committee, and has to do with Cook county, and I do hope that the members of this Convention who do not come from Cook county will be a little indulgent of my apparent persistency. We have today in Cook county conditions that do not exist anywhere else. You have probably heard that very often, and you will hear it still oftener before we get through. Now, the committee of which I am a member would like to have in this section 4 a constitutional provision to the effect, that the fees and emoluments and interest shall be paid into the county treasury. Now, whether there is another provision in the Constitution or not covering county officers of other counties does not militate against the position which I wish to urge upon this body. We have always had trouble in Chicago, lawsuits and controversies of all kinds for many years, notwithstanding there may or may not have been legislative attempts to give us relief. Why not let Cook county, which is drawing practically a charter for itself, have the right to designate in that fundamental law that all its county officers shall turn over all emoluments and fees and interest monthly? It can do no harm to the counties outside of Cook county. It can, and I think will,

do good to the county officers in Cook county. I hope that the amendment will be voted down.

Mr. HULL (Cook). I simply wish to register my hope that the amendment will be voted down.

CHAIRMAN WILSON. The motion is upon the amendment to strike out the second sentence of section 4.

(Amendment lost.)

CHAIRMAN WILSON. The question now is upon section 4 as amended.

Mr. HULL (Cook). I move its adoption.

(Section 4 adopted.)

Mr. HULL (Cook). Now, I move that section 6, which has already been read, be adopted. Section 6 simply provides that the county may be divided, but that any division shall require a submission to the voters of the county, and the assent of the voters of the county, and the assent of the territory to be taken away from the county. I believe this follows practically the provisions in the old Constitution with reference to the division of counties.

Mr. HAMILL (Cook). May I ask the gentleman a question? I see in the second line you provide, "nor any territory taken from it." Then in the fifth line you provide again, "no territory shall be taken from the County of Cook." What distinction is there between the two takings? Why did you provide so twice?

Mr. MAYER (Cook). One requires a majority vote of the county divided, and another requires a majority vote of the county taken.

Mr. HULL (Cook). The section requires a submission to the voters, and assent of the majority of the entire territory.

Mr. HAMILL (Cook). What is meant by dividing?

Mr. HULL (Cook). Well, making two counties out of it, I presume, to be divided.

Mr. HAMILL (Cook). That would be taking territory from it, wouldn't it?

Mr. HULL (Cook). That language is very much like the language of the county article.

Mr. HAMILL (Cook). I am just asking you if you have two different things in mind?

Mr. HULL (Cook). Not particularly, no. A slice might be taken off of the county which was not really dividing the county in the sense of creating two different counties. A slice might be taken off and added to Will county, or added to Lake county, but it would not be dividing the county in the sense of creating two new counties. That would be a different thing.

Mr. CRUDEN (Cook). I wish to offer an amendment by striking out in line four "the majority thereof" and insert the words "three-fifths" and the same in line six, the first two words. There are some of us who feel that that change should be made, and feel that it is in harmony with the opinion expressed here the other day when the initiative and referendum was set aside. There are quite a number of people in Cook county in harmony with us on that, and they think that should be done. There certainly would be some merit in adding to or dividing a county when it receives a vote of that kind. There are many people believe in having the county government remain as it is.

Mr. HULL (Cook). There is a provision on that in the articles on counties, and I hope the amendment will not prevail.

(Amendment lost.)

(Section 6 adopted.)

CHAIRMAN WILSON. The question is on the adoption of section 7.

Mr. LINDLY (Bond). Does this mean when the General Assembly passes any law in regard to the organization of counties it must be submitted to the voters of Cook county before it will be effective there?

Mr. HULL (Cook). It refers to the County of Cook and not to counties generally, it is the same section as introduced in the county article for the entire State, it permits an open door for the change in the form of county government.

Mr. LINDLY (Bond). Does it state that? Is it effective in that way?

Mr. CRUDEN (Cook). Notwithstanding the debate I just had on the other motion I wish to present another amendment to this section by striking out the words "a majority thereof" in line four and insert in lieu thereof "three-fifths" the same thing. I wish to offer that amendment.

Mr. HULL (Cook). I hope it will not prevail.

(Amendment lost.)

(Section 7 adopted.)

CHAIRMAN WILSON. The question is on the adoption of section 8.

Mr. HULL (Cook). I move the adoption of this section. This section is intended to permit county consolidation with the City of Chicago inside of the limits of the City of Chicago whatever those limits may be, and if it should be desirable the creation of a separate county outside of Chicago, which would be created by the consolidation of the county with the city outside of the city limits. There is nothing which provides for the consolidation of the county with the city except as to territory inside the city limits and it requires a referendum vote of the voters in the territory affected inside the city and the County of Cook.

Mr. CRUDEN (Cook). I want to offer an amendment again, in this section, perhaps I suggested the wrong percentage, if I had suggested one-half of one per cent I might have been more effective in the amendment, but I shall offer again an amendment to the effect that the words "a majority thereof" be stricken out and the words, "three-fifths" inserted in lieu thereof in line twenty-two.

(Amendment lost.)

(Section 8 adopted.)

Mr. JARMAN (Schuyler). What is the purpose of that last provision in lines twenty-three to twenty-seven?

Mr. HULL (Cook). There is a provision in section 7 here, the General Assembly notwithstanding sections 1, 2 and 3 of this article, may enact laws for the organization, conduct and government of the County of Cook. I suppose that if a consolidation took place, that the part of Cook county lying within the limits of the City of Chicago, that if the county government functioning in that territory were vested in the city government there would still be a County of Cook lying outside the City of Chicago with respect to which the legislature might desire to pass laws. I suppose, besides changing the forms of the county government provided therein, and I think this last sentence would apply to that situation.

Mr. JARMAN (Schuyler). Why should there be an exception in this regard with reference to the territory outside of Chicago forming into a separate county, why should there be an exception with reference to that county as compared to other counties in the State?

Mr. HULL (Cook). Well, it is a part of the County of Cook now and it is not taken care of in your Cook county article, I mean in your general county article, because the general county article excepts Cook county, so I should suppose of necessity there would have to be some arrangement to take care of that situation. It is substantially analogous I believe to section 7, and any action taken under this last sentence would be taken under section 7, too. That territory is entitled to the same consideration as the rest of the State.

Mr. JARMAN (Schuyler). But in the rest of the State, the other counties, it does not require a vote of the people?

Mr. HULL (Cook). I believe it does.

Mr. JARMAN (Schuyler). It does when they change the government, but this is after it is changed.

Mr. HULL (Cook). There you have a separation so that the territory lying outside of the City of Chicago is a county by itself independent of the territory lying inside the City of Chicago, and it will still have a general form of government, I take it, Cook county, but there will be some changes which will have to be made on account of the consolidation, and after that

consolidation other changes might be desired in that territory, and if other changes are made it would be up to the people in that territory.

Mr. MAYER (Cook). I rise to confess my ignorance with reference to lines twenty-three to twenty-seven, ignorance no doubt due to my inability to attend all the meetings of my committee. At the risk of being a little tedious I want to read, beginning with line twenty-three.

"After any such consolidation becomes effective, any law affecting only the City of Chicago, or only the territory lying beyond the limits of said city, may become effective if submitted only to the legal voters." Legal voters, I don't understand what this means. Does this refer to a law already in existence before the consolidation or to a law enacted after the consolidation? If after, then the sentence is utterly meaningless. If before, why do you want to submit again to a vote of the people whether a law already in effect in the City of Chicago shall be in effect?

Mr. HULL (Cook). I am not sure that I get the full point of Mr. Mayer's question. Supposing—

Mr. MAYER (Cook). Let me do the supposing, please.

Mr. HULL (Cook). Let me answer the question, as I understand it, and we will get together better by doing that. Supposing there is a consolidation of Cook county, so far as it relates to the territory within the City of Chicago, would the government of the City of Chicago and the creation of a county government of the territory outside of the City of Chicago,—then it may be the General Assembly after that time should pass laws with reference to the county government of that territory lying outside of the City of Chicago, and it may be desirable to pass laws with reference to the exercise of those functions of county government, of the territory inside the City of Chicago, and any of those laws can become effective, according to this paragraph, in either of those cases, by submission to the voters. For instance in section seven, suppose the territory outside of the City of Chicago is made into a separate county government, section seven provides notwithstanding sections two and three of this article, the legislature may enact laws for the organization and the conduct of the county. If the government of the County of Cook, after a new county has been created outside of the City of Chicago, needs legislation, any legislation under section seven would be submitted to the voters in that territory lying outside of the County of Cook which is to become a new county government and will become effective if submitted to and approved by the voters in that territory—

Mr. MAYER (Cook). I have not made myself plain I fear, take line twenty-three, does that apply to laws enacted after the legislation—?

Mr. HULL (Cook). After the consolidation.

Mr. MAYER (Cook). After the consolidation?

Mr. HULL (Cook). Yes, after any such consolidation.

Mr. MAYER (Cook). That is the laws passed after any such consolidation is that it?

Mr. HULL (Cook). Yes.

Mr. MAYER (Cook). In other words, a law passed after any consolidation—suppose Maywood was consolidated with the City of Chicago, that is not a part of the County of Cook, and the county government of Cook county is extended to Maywood, as well as Chicago, isn't it?

Mr. LINDLY (Bond). Wasn't it a matter that was thoroughly discussed in the Chicago and Cook County Committee?

Mr. MAYER (Cook). I can neither say yes or no, I was not present.

Mr. LINDLY (Bond). I thought you were a member of the committee, I did not know.

Mr. MAYER (Cook). I have said at the start that I was not present when this was discussed, but had I been, God Almighty would permit us to get new light. I still don't understand what this means, after any such consolidation becomes effective, any law affecting the City of Chicago—now leave out the next words, or any territory lying outside the territory of the city—may be submitted to the voters of this city, do you refer to laws there-after enacted?

Mr. HULL (Cook). Surely, yes.

Mr. MAYER (Cook). And so it should read, or the meaning is, after any such consolidation becomes effective any law enacted after any such consolidation affecting only the City of Chicago or only the territory lying beyond the limits of said city may become effective if submitted only to the legal voters of said city or the legal voters of said territory?

Mr. HULL (Cook). That is intended to apply to legislation to other territories and the city or outside of the city, that is passed after the consolidation.

Mr. MAYER (Cook). Then is there any objection to inserting the words —after the words in line twenty-three “after any such consolidation becomes effective, any law thereafter enacted”?

Mr. HULL (Cook). I see none.

Mr. MAYER (Cook). I suggest that amendment.

Mr. HULL (Cook). I think that is all right.

Mr. HAMILL (Cook). As I read the section now it provides that every law which may be passed after a consolidation which affects only the City of Chicago can become operative only if approved in a referendum by the City of Chicago.

Mr. HULL (Cook). That relates necessarily to the county functions.

Mr. HAMILL (Cook). It does not say so.

Mr. HULL (Cook). Well, it is under the county article here.

Mr. HAMILL (Cook). It says any law thereafter.

Mr. HULL (Cook). It has to do with the consolidation here of county functions and city functions.

Mr. HAMILL (Cook). What you mean is any law relating to county and city powers of government.

Mr. HULL (Cook). County government.

Mr. HAMILL (Cook). County and city government.

(Amendment adopted.)

(Section 8 adopted.)

CHAIRMAN WILSON. The question now is upon the adoption of section seventeen of article one, which was laid over.

Mr. SUTHERLAND (Cook). I have two amendments which I desire to offer to section seventeen.

Mr. HULL (Cook). Are you offering them separately?

Mr. SUTHERLAND (Cook). Yes, I will offer them separately, and they will come in at the end of section seventeen.

After section seventeen amendments one and two, “such an ordinance shall not be passed and submitted to the voters oftener than once in ten years, and the maximum limit of indebtedness when so extended shall never exceed ten per cent of the full value of taxable property within the corporate limits of the City of Chicago as ascertained by the last assessment for State and county taxes.”

That I think is self-explanatory. It simply provides that they cannot go on increasing the indebtedness fixed in section 8 of the revenue article and five per cent of the assessed value of the property, but shall only submit an ordinance as provided in section seventeen once in ten years, at least not oftener, and also that in no case shall the limit when so exceeded be greater than ten per cent of the taxable assessed value of property.

Mr. TRAUTMANN (St. Clair). Is this in addition to the fifteen per cent provided in section nine of the revenue article?

Mr. SUTHERLAND (Cook). I have another amendment which provides it shall not be in excess of that fifteen per cent, and that amendment will follow this one.

Mr. TRAUTMANN (St. Clair). Won't you have a conflict between this section and section nine of the other article, the revenue article?

Mr. SUTHERLAND (Cook). No, I think not.

Mr. TRAUTMANN (St. Clair). The limit of the special indebtedness made possible under sections nine, ten and eleven of the revenue article shall in no case be exceeded under the provisions of this section?

Mr. HULL (Cook). I want to know what the last amendment means? The first amendment to the effect that there shall not be any increase of the

debt limit or submission of an ordinance oftener than once in ten years is understandable. I think there might be a large public opinion to support that proposal. I am not perfectly clear on it myself, but we can understand that, now the rest of your amendment is what?

Mr. SUTHERLAND (Cook). Making the maximum limitation that can be reached, even by the method set forth in section seventeen, ten per cent instead of five per cent, that is the present maximum five per cent, they may exceed that by ordinance passed and submitted once in ten years, but never shall the maximum limit even under that operation exceed ten per cent.

Mr. SHANAHAN (Cook). What about the proposed fifteen per cent in value of real estate, would that be in addition to that also?

Mr. SUTHERLAND (Cook). That is separate, but that fifteen per cent cannot be exceeded by the method set forth in section seventeen.

Mr. SHANAHAN (Cook). Does that mean that they are limited to twenty per cent?

Mr. SUTHERLAND (Cook). That would be possible.

Mr. HULL (Cook). What you mean by the second amendment is that fifteen per cent can never be increased for the purpose of financing utilities?

Mr. SUTHERLAND (Cook). Yes.

Mr. HULL (Cook). Under the operation of this particular referendum provision?

Mr. SUTHERLAND (Cook). Yes.

Mr. SHANAHAN (Cook). It means you can levy twenty-five per cent?

Mr. SUTHERLAND (Cook). Yes, and as the section stands you can levy thirty-five per cent now.

Mr. HULL (Cook). Mr. Sutherland is trying to put on this section a limitation for general corporate purposes, and not the purposes incorporated in sections nine, ten, eleven and twelve of the revenue article, that it shall not exceed the total of ten per cent, and there never can be a submission asking for an increase oftener than once in ten years.

Mr. SHANAHAN (Cook). Nevertheless that can be a twenty-five per cent limitation.

Mr. HULL (Cook). It is conceivable that you can have a ten per cent bonded indebtedness under the terms of this article and have a fifteen per cent indebtedness under the provisions of section nine, ten and eleven of the revenue article for the purpose of financing the operation of public utilities. I say that is a conceivable situation, but as a matter of election and as a political possibility it is always in my mind an impossibility because it is always done upon the submission of the current indebtedness to the voters, as long as the indebtedness goes up they will endeavor to keep it down. The purpose of this particular section is to make it possible under the consolidated government to meet some of the needs of the future ownership, and matters which are not comparable to operating public utilities. There is or will be if this consolidation takes place at a reasonably early date under this new Constitution a debt incurring power of approximately fifteen million dollars, and there would be practically every year under these provisions a recurring debt incurring power of eight million dollars. It was considered in the judgment of the committee that that would probably meet all reasonable demands of the municipality to borrow money for the purpose of public uses, that did not yield a revenue. Nevertheless it is impossible to foresee what the future will bring forth, and for the purpose of permitting the city under circumstances of great stress to increase its bonded indebtedness this section was put in, and as you see it was filled with checks and balances for the better protection of the tax paying public. It provides in the first place that the General Assembly must pass a law authorizing the increase and must be approved by two-thirds of the legislature, and two-thirds of the city council, and must receive the favorable vote of three-fifths of the voters voting on the question. It is in effect a provision for a constitutional amendment to increase the debt limit for the City of Chicago, but requires one submission of such proposition to the voters of the City of Chicago alone, and also requires on such submission a

larger majority than would be required in the matter of constitutional amendments for the Constitution of our State.

Mr. SHANAHAN (Cook). Am I right, if Mr. Sutherland's amendment is adopted and this becomes a part of the Constitution, that Chicago could levy, could go into debt twenty times the amount that it can at the present time? Now it is five per cent on the assessed value and on this it would be ten per cent on the full value and twice ten is twenty.

Mr. SUTHERLAND (Cook). It might.

Mr. SHANAHAN (Cook). Twenty times as much as it is now in debt?

Mr. SUTHERLAND (Cook). My amendment does not make that possible, but it could go thirty times without the amendment, thirty or forty times.

Mr. RINAKER (Macoupin). I desire to ask the chairman of the committee whether in view of the statement that has been repeatedly made on the floor here that there was only one tax payer out of five voters in Chicago, if the representatives from Chicago believe it would be perfectly safe to the tax payers to leave the provision in the form you have it.

Mr. HULL (Cook). Mr. Chairman, the committee in presenting this section seventeen have exercised their best judgment as to what would be safe for the tax payers and what would be wise for the city. They are not evading any responsibility. They recognize the possibility suggested by the gentleman from Cook, Mr. Shanahan, the intellectual possibility, that is the only way I can describe, of the accumulation of the debt limit to a considerable amount, but as a practical political question the committee did not believe there would be any such extension of the debt limit, any large extension of the debt limit. The operation of political forces would make it impossible to get through any scheme to cover any extravagant debt. Now, so far as sections nine, ten, eleven and twelve of the revenue article are concerned, you will note that the income producing provisions of this section were intended to make it possible to operate those utilities so that it would not put on the tax payers an additional tax burden, and it was also put in there the matter in which the bonds issued for the purpose of financing the utilities would have to be paid, out of the earnings of the company. That may be a day dream, I think it is not impossible. I think it is quite possible and likely that the city would pay, entirely pay off the old debts.

Mr. TRAUTMANN (St. Clair). If, under this provision, there is a consolidation between the City of Chicago and the Sanitary District, as is possible, and if you continue to get power from the drainage district and use it for passenger and transportation purposes, could that drainage district be construed as an income producing utility, and if it were, would it come under your fifteen per cent provision?

Mr. HULL (Cook). The utilities are described under Mr. Hamill's amendment.

Mr. TRAUTMANN (St. Clair). Yes, it says transportation, power, light, heat and water. Now, after the consolidation suppose you still got power from this State drainage district, and you used it for commerce, transportation for freight and passengers, and got an income from it, could it be construed as an income producing utility so that it would come under sections nine, ten, eleven and twelve of the revenue article and be included in the fifteen per cent limit of bonded indebtedness?

Mr. HULL (Cook). I am not sure I get your question, but the debts of the sanitary district would be taken over by the City of Chicago.

Mr. TRAUTMANN (St. Clair). I understood you a minute ago, when you answered Mr. Shanahan, to say that in order to raise the limit to ten per cent according to Mr. Sutherland's proposition, you have practically put in the fifteen per cent bonded indebtedness, because you get your five per cent from the city and five per cent from the drainage district, got them all consolidated. Now, then, if this waterway is declared an income producing property wouldn't it under the revenue article as far as the bonded indebtedness is concerned, or would it remain under section seventeen of this article, and be a part of the city's general indebtedness?

Mr. HULL (Cook). The debts of the sanitary district would be a part of the city's general indebtedness, as soon as it was consolidated.

Mr. TRAUTMANN (St. Clair). Put this in another way, that if you intended to issue bonds in the future—

Mr. HULL (Cook). I think I can answer your question this way, that the present Constitution has a provision permitting an indebtedness of five per cent upon the real value, hasn't it, the full value?

Mr. TRAUTMANN (St. Clair). Yes.

Mr. HULL (Cook). That was intended and this article has practically repeated the provisions of the present Constitution in that respect, that was intended to make it possible, by making the debt limit five per cent of the total debt limit, of all municipalities inside of the State, to include the sanitary district, and your question is now supposing that the city were to take over the sanitary district, and were wishing to incur additional indebtedness?

Mr. TRAUTMANN (St. Clair). Yes, and in which fund would it be charged, would it be an additional indebtedness?

Mr. HULL (Cook). For what purpose was the additional indebtedness incurred?

Mr. TRAUTMANN (St. Clair). For improvements, or maintenance or operation of the drainage canal, would it be charged to the fifteen per cent of bonded indebtedness under the revenue article or under your city article?

Mr. HULL (Cook). If they manufactured light or power and disposed of it to consumers, etc., for revenue purposes it would come under the revenue article, but if it were simply furnishing sewage, disposal of light and service in a public way, lighting the streets, it would come in with respect to the city's indebtedness outside of the revenue article.

Mr. GALE (Knox). In this section seventeen, we have this wording, to start with, "subject to sections nine, ten, eleven and twelve of the revenue article;" then the General Assembly shall have power to permit. Now, you are proposing by this amendment to raise that to ten per cent, whereas section eight provides, except as otherwise provided in this Constitution no county, etc., shall be permitted to become indebted in the aggregate exceeding five per cent. Now it seems to me that ought to be changed in view of this, and that should read, subject to sections nine, ten, eleven and twelve because in this section the proper wording is not subject to section eight, but in spite of section eight.

Mr. HULL (Cook). I think you are right on that.

Mr. GALE (Knox). I think if you are going to make this ten per cent, I think it is anomaly to say subject to section eight of the revenue article while it is not, but is subject to sections nine, ten and eleven and twelve. I don't know if I make myself clear but it seems to me there is a difficulty there.

Mr. HULL (Cook). I see your point and maybe you are right.

Mr. MILLER (Cook). My first reaction was the same as the gentleman who just spoke, Mr. Gale, but on reflection it seems to me the intention was to make the raising of the debt limit subject to the other provisions of section eight than, the five per cent, so that if that limit should be raised there would nevertheless be the provision for repayment put in section eight, and therefore I hope the chairman will not adopt the suggestion without a little thought.

Mr. GALE (Knox). I merely wanted to be sure the point was considered.

Mr. MILLER (Cook). There are a few words that I would like to say about section seventeen as correctly stated, it seems to me by the gentleman from Macoupin. It is a thing that requires careful consideration. Personally I am for it, and my reasons are briefly these, it provides a means in addition to the ordinary method of amending the Constitution for increasing the debt limit for the City of Chicago. Those things are fairly well guarded; it first must be a vote by the legislature, next by a two-thirds vote by the council, permits next by a three-fifths vote of the voters, and three-fifths of those voting on the question, that increase. Now, obviously, the

question of whether Chicago's debt limit should be increased is one which affects more vitally the people of Chicago than the people down State. If there is no means of increasing that debt limit except by amendment to the Constitution then we are limited in the means for increasing the debt limit to a vote of the people, one-half of whom have no interest whatsoever in the subject, and therefore perhaps would be less likely to vote right on the question than they would be were it one in which they had some near or remote interest. Now, here is another consideration, at the present time while under that Constitution we nominally have a debt limit we in fact have none, the legislature can meet next winter and by laws enact that the assessed valuations shall be the full valuation, that will double the debt incurring power of Chicago, and they may impose a new taxing body, with a five per cent incurring power, they may then impose a new taxing body that will further double it, a traction district, with a five per cent debt incurring power, and if they take just those two debts, the debt incurring power would have been up four times what it is now, of course that process can be repeated without limit.

While the gentleman from Cook, Mr. Shanahan, suggested that under the provisions here the debt might be increased twenty times, I think he is wrong about that, under his reasoning it would be four times.

Mr. SHANAHAN (Cook). No, I included the fifteen per cent additional.

Mr. MILLER (Cook). But by making it ten per cent, the ten per cent should never be ten per cent of the full valuation, that was the amendment, that would be four times the present debt limit. Of course the legislature may say that the assessed value will be the full value, that would double it at one, and make it half of what the possibility would be under this; the possibility under this would be only twice without action by the legislature, to the effect that the assessed value shall be the full valuation, I mean as it stands without the amendment which is offered by Mr. Sutherland; but in view of the fact, the reasons I have said, why this has seemed wise to me is in the first place that permits a method of increasing the debt limit which is under the control of those interested in the subject, to-wit, the people of the City of Chicago, and secondly, it is well guarded, and third we now have practically no debt limit by reason of the right of the legislature to impose other taxing and debt incurring corporations on the same territory. You will notice by referring to section seven that we put in this article a limitation which does not under the present constitution exist, as to these other new debt creating corporations superimposed on the same territory. The section reads, "the consent of the city shall also be required for the creation or the enlargement of any municipal corporation other than a county, exercising taxing powers in any part of the City of Chicago, or for the increase of taxing powers of any such municipal corporation hereafter created or enlarged." As a matter of fact, at the present time the legislature, without any referendum, without any action by the people of the City of Chicago, without any vote, may increase the debt incurring power of the government of the City of Chicago by imposing thereon a new government superimposed on the present territory with a debt incurring power of five per cent, and they may not do that once, but two or three times. Under those circumstances it seems to me in the first place that the situation is just as well guarded and perhaps better guarded than it is now. In the second place it places the matter in the control of those who are interested in the subject rather than solely in the control of two bodies of men, one those who are interested in the subject, to-wit., the people of the City of Chicago, and the other, the rest of the State, which is not interested in it. If I may say a word on the amendment offered by Mr. Sutherland. There are perhaps two objections that I might raise to that amount, one is that it speaks for a full valuation instead of an assessed valuation.

Mr. SUTHERLAND (Cook). The amendment uses the same phraseology as section eight of the revenue article, and repeated in section fifteen of this article.

Mr. MILLER (Cook). That agrees with what I should suppose to be correct. It may not be submitted to a vote oftener than once in ten years.

I am inclined to agree that there should be a limit to the frequency with which it may be submitted, and the vote taken, but isn't ten years too long? Suppose for instance it is voted on tomorrow and it falls, now I grant it ought not to be voted on next month, probably not next year, but to say it shall not be voted on for ten years practically kills the section it seems to me. Conditions might vitally change in that time, and if it can only be submitted once in ten years I think it would be unworkable.

Mr. HULL (Cook). Did you say it could not be submitted or it could not be increased by an approval?

Mr. SUTHERLAND (Cook). Such ordinance could not be submitted or passed oftener than once in ten years.

Mr. HULL (Cook). Passed and submitted.

Mr. SUTHERLAND (Cook). Passed and submitted.

Mr. MILLER (Cook). In case the General Assembly passed an act authorizing the city to incur increased indebtedness under this section, and the city council approved it by two-thirds vote, and it was submitted and defeated by the people, do I understand that it cannot be submitted for a period of another ten years?

Mr. SUTHERLAND (Cook). That is my phraseology. I confess it might be perhaps better or worthy of considering whether or not you want to make that instead of a limitation on the frequency of submission, a limitation on the frequency with which the limit can be exceeded.

Mr. HULL (Cook). Unless it is amended I should be inclined to be against that amendment.

Mr. SUTHERLAND (Cook). Well, I would suggest that an amendment be formed to make it provide as to the frequency of exceeding it and that if that is carried that will take care of the matter. If that does not carry certainly my amendment should carry.

Mr. MILLER (Cook). I will say that if it is so changed as to read that the debt limit ought not to be increased oftener than once in ten years it will meet my approval heartily.

Mr. WILSON (Cook). I think you are up against the most dangerous ground you ever touched on in these deliberations. I was unable to go along with the committee upon the proposition of permitting Chicago or any other city to exceed its bonded debt limitation provided by the Constitution for any purpose, no matter what the purpose might be. I have yet to find anywhere in Chicago, any demand for any such suggestion as is contained in article seventeen. I don't know where it came from. I cannot understand why we should go so far as to attempt to put into our Constitution any such dangerous provision. I hope that every amendment to it will be voted down and I hope the article itself will not carry. The question is on the amendment offered by Mr. Sutherland.

Mr. MAYER (Cook). I desire to be heard on this matter and I suggest that we take a recess until eight o'clock. I am very much inclined to agree with the chairman that you are entering upon a very dangerous field and I do not believe it is asking too much to pause and reconsider this after the recess. I want to study very carefully sections eight, nine, ten, eleven and twelve of the revenue act, and I want to study them in connection with section seventeen here proposed. I am very apprehensive that we are entering on a very dangerous course; with the woman suffrage in Chicago, it now has one million voters in round numbers, and I think we have about one hundred thousand tax payers, and the City of Chicago is utterly unlike any other part of the State of Illinois, perhaps unlike any other part of the United States, and I am very fearful that we are creating a constitutional provision which will be destructive of property rights and interests in Cook county and I move that we now take a recess until eight o'clock so that we may have time in the meanwhile to give further study to it and dispose of it afterwards.

(Motion lost.)

Mr. MAYER (Cook). I cannot fully agree with my colleague, Mr. Miller, that section seventeen is surrounded with sufficient limitations and restrictions. Section seventeen provides that the General Assembly shall have

power to permit the City of Chicago to become indebted to an amount to be fixed by it in the aggregate exceeding the limit prescribed by the Constitution. A majority of a majority of the General Assembly, which would mean one more than one-quarter, can authorize the City of Chicago to exceed without restrictions, the prescribed limit of its indebtedness, if that is secured, not by ordinance passed by two-thirds of the city council, but by three-fifths of the voters voting on the question, then the gates are open and the limit of indebtedness is as wide and as high as the sky. Do the members of this Convention want to create such an opportunity for the people of Chicago? I have already said, I may be slightly inaccurate as to my figures, that there are now over one hundred thousand tax payers in Cook county, and there are now one million voters, and all that will be necessary will be for three-fifths of those to vote on the question, with a two-thirds vote of the city council, and one more than one-quarter of the General Assembly, to create this fearful opportunity. You have not yet determined as to what the proportion of Cook county's representation shall be in the legislature, but if you limit it to one-third the members of the legislature from Cook county alone, a portion of those members, three-fifths of the electors voting on the question and two-thirds of the council can authorize the City of Chicago to create an indebtedness that will go to the full extent of the full value of all its property. Now that is an enormous proposition. It is appalling in its possibilities. I don't agree with the chairman of the Committee on Chicago and Cook County that it is a political question, which need give us no trouble. It is because it is a political question that I am afraid of it. If it were anything but a political question I would be very much less troubled, in the danger that is ahead of the tax payers of Cook county. I believe they are not sufficiently protected by section seventeen, it is not as Mr. Miller has stated, more difficult than now exists, with reference to amendments of the Constitution—I have forgotten but my recollection is that an amendment must be proposed—I will let Mr. Shanahan correct me if I am in error—and passed by a majority or at least two-thirds of both houses. Now that is a prevention which has been a safeguard and a bulwark to Chicago, and without anticipating the question of proportionate representation, it has been one of the reasons that has weighed heavily with me and will weigh heavily with me as to whether Chicago should have or wants a representation of the number of its electors or voters. We have to do with conditions that as I have said do not exist anywhere else. We have to do with political conditions, and I am not personal in the reference that I am making, the very argument that has been made that we should not frame an attempt to increase the limit except within a prescribed period, indicates that there are conditions which we are trying to guard against. If it be true that three-fifths of the voters, voting on the question, and two-thirds of the council, and a majority of one-half of the legislature is sufficient why the question of coming before the people every year or every month need cause no concern, yet we are all concerned with the check to limit that possibility of danger. I am addressing myself more to the members that do not come from Cook county, because it is in the membership from down State that I look for the conservative protection, for the conservative prevention, of hastening unfair, unreasonable and destructive legislation. I feel very strong about this question. I think that section seventeen is wrong, and when you read section seventeen in connection with sections eight, nine, ten, eleven and twelve, as Mr. Shanahan has pointed out, there is a possibility, and I am not building nightmares, of the City of Chicago going into indebtedness, not only fifteen per cent of the amount of its realty, but for the purpose of street cars or carrying freight or running electric light plants, or other public utilities, which is a very comprehensive dream even within the meaning of the Revenue Act, as submitted to this assembly, and then add to that the absolute act of limitation upon the amount of indebtedness which the City of Chicago can create for any and all corporate purposes, you are creating a power, you are creating an opportunity, and gentlemen, I urge you to think twice before you indulge the voters of my city with the opportunity of doing that which in my judgment will become

a political factor immediately the Constitution is adopted, and the result of political factors and political elements in Chicago are as difficult to anticipate and solve as it is now to determine whether it is going to rain the next Fourth of July. I urge the members of this Convention, particularly those who do not come from Chicago, no less than those who come from Chicago, to think twice before doing that which you, in my opinion, will regret as soon as the new Constitution, if it be enacted by the people, is on our books.

Mr. SHANAHAN (Cook). I think the members possibly misunderstood what they were voting on when they voted on the adjournment. There are two or three sections here which have been passed in this proposal, and it will be necessary for us to come back this evening, so I move that we now adjourn until seven forty-five o'clock.

CHAIRMAN WILSON. You have heard the motion, gentlemen. What is your pleasure?

(Motion adopted.)

Adjournment until 7:45 o'clock.

8 o'Clock P. M.

Committee met pursuant to recess.

Mr. HULL (Cook). For the enlightenment of the committee, I would ask that Mr. Sutherland's amendment be read.

Mr. SUTHERLAND (Cook). With the consent of the committee, I would like to change the amendment in one particular, so instead of reading that such ordinance shall not be submitted oftener than once in ten years, to read such ordinance shall not be adopted oftener than once in ten years.

Mr. MILLER (Cook). I am heartily in favor of the amendment as it now stands. That would make the limit of the indebtedness under any circumstances, which might be raised under this section ten per cent of the assessed valuation, which is twice the amount of the present, and it would make it—it would limit the power to raise to any extent once in ten years.

Now let us compare for a moment the way the situation would stand if that was passed as compared with the situation at the present time. Mr. Chairman and gentlemen, I stated on Wednesday last when this section was first read, it being the last section that was read on Wednesday before adjournment, that it was a matter which required the carefulest consideration and for that reason I moved an adjournment at that time until today, so that the matter could have careful consideration. In the first place I was doubtful about this provision. It was a compromise or a very severe paring down of what was requested by the representatives of the City Council. Now let us see where that stands now as compared with the present situation. That is on the assumption that this goes through with the amendment that is now offered. I am not one of those who believe in throwing open the door wide, to give Chicago unlimited debt creating power, notwithstanding that I hope after this Constitution is adopted, if it is adopted, that the percentage of taxpayers among the voters of Chicago will be very much increased. At the present time the bonding limit in the City of Chicago is either twenty-five or thirty per cent of the assessed valuation. I am not capable of deciding which it is, it depends on whether the bonding limit for schools is outside of the bonding limit for the city or is inside. If it is inside then the bonding limit at the present time is twenty-five per cent, and—twenty-five per cent of the assessed valuation—five per cent each for the city, the county, the Sanitary District, the Forest Preserve District and the parks, of that twenty-five per cent, and eight per cent has already been used out of that twenty-five or thirty per cent, whichever it may be; out of that twenty-five or thirty per cent, fifteen or twenty per cent may be created without the consent of all the voters; that is the situation now. If this amendment should go through then ten per cent after consolidation would be the full limit, no, ten per cent at the present time, and twenty per cent after consolidation would be the full debt creating power. In other words

it would be either five or ten per cent, not five or ten per cent less, but either one-sixth or one-third less than it is at present.

Now, that is the situation. And I am told by a representative of the city government, that before consolidation goes through that the whole twenty-five or thirty per cent of the debt creating power will have been used up. That is his theory, of course, that is all. There is a good deal of encouragement on the other side of it, in the fact that although as I said about two-thirds of that debt creating power is not hampered by any restriction for referendum—

Mr. SHANAHAN (Cook). Which ones?

Mr. MILLER (Cook). The county, sanitary district, forest preserve, and if the bonding limit for schools is outside of the city, the schools—in other words fifteen or twenty per cent of the twenty-five per cent—

Mr. HULL (Cook). This amendment provides that this limit shall not exceed in the aggregate ten per cent of what? Of the assessed value, or of the full value?

Mr. SUTHERLAND (Cook). Of the assessed value of the taxable property?

Mr. HULL (Cook). How do you reconcile that with section fifteen; you understand that your amendment would make the debt limit of the city under section 15, prior to consolidation, ten per cent of the assessed value, but when the consolidation takes place there is the additional provision of fifteen and it will become ten per cent of the full value.

Mr. SUTHERLAND (Cook). As I understand it, it would become ten per cent of the full value if the legislature so ordered it.

Mr. HULL (Cook). In section fifteen we have a very definite limit of borrowing power; in the event of consolidation that limit has in mind the fact that the present limit for the city without consolidation is five per cent, and that in case of consolidation with the overlapping of municipalities it would be necessary to increase it at least five per cent of the full value. Now my question was whether your amendment to section 17 would operate to permit ten per cent of the assessed value, and in case of consolidation that might be increased to ten per cent of the full value—

Mr. SUTHERLAND (Cook). You think that that would operate that way?

Mr. MILLER (Cook). As to whether it would be ten per cent after consolidation, I think it might.

Mr. SUTHERLAND (Cook). It might if the voters gave their consent—it would not automatically—and neither does this give it authority automatically.

Mr. HULL (Cook). Under section 16 the legislature could give the necessary consent, and the ordinance approving it could be passed by two-thirds and the consent of the voters received by three-fifths of the voters, that would permit an increase. And it could be increased up to ten per cent of the assessed value prior to any such action, and assessed values are made full values by the legislature, so then it could be made ten per cent of the full value, couldn't it?

Mr. SUTHERLAND (Cook). Yes.

Mr. HULL (Cook). Then under section 17 section 15 would not operate at all?

Mr. SUTHERLAND (Cook). No.

Mr. HULL (Cook). Because that change would have to come by action of the legislature making assessed value full values, wouldn't it?

Mr. SUTHERLAND (Cook). Yes.

Mr. MILLER (Cook). That is my understanding; now to continue just a few more words, Mr. Chairman, not only have we now the bonding limit of twenty-five or thirty per cent, but the legislature by a majority of a quorum, as has been expressed here by one vote more than a quarter, in each house, can raise that bonding limit as it now exists.

Mr. HULL (Cook). It cannot do that; it takes a majority of the whole legislature to do that. It takes a quorum to pass a bill.

Mr. MILLER (Cook). To pass a revenue bill?

Mr. HULL (Cook). Any bill.

Mr. MILLER (Cook). The majority of the quorum?

Mr. HULL (Cook). No, constitutional majority.

Mr. MILLER (Cook). Very well, I thank you for the correction.

By whatever vote the legislature can pass any act, I will say that they can pass an act raising the present bonding limit from twenty-five or thirty per cent to fifty or sixty per cent of the present assessed values.

Mr. SHANAHAN (Cook). Can double it?

Mr. MILLER (Cook). Yes, in other words it is twenty-five or thirty per cent now, and the legislature can double it.

Mr. SHANAHAN (Cook). Making it full value instead of assessed value?

Mr. MILLER (Cook). Yes, which would make it fifty or sixty per cent of the present assessed value, or twenty-five or thirty per cent of the full value; and the legislature can double it. That is our present situation so far as the constitutional limitation is concerned, upon the bonding power of the city of Chicago, lying within the City of Chicago; and for those reasons, Mr. Chairman and gentlemen, it seems to me that the proposal before the Convention, as set forth in section 17, as amended by the amendment offered by the gentleman from Cook, Mr. Sutherland, will add rather than take from our protection in Chicago because of the other provisions of this section.

Mr. MAYER (Cook). I am sorry I cannot agree with the reasoning or conclusions of my friend, Mr. Miller. The present Constitution limits the bonded indebtedness to five per cent; it is true that the legislature can assess at full value, or at one-third value as was the rule heretofore, or one-half value as is the rule at present, but I am taking a little broader view of the situation; I am reading not only section 17 which is now under discussion, but I am referring also to sections 8, 9, 10, 11 and 12 of the revenue act, or revenue proposal No. 378. Now, let us see where the City of Chicago will be. That revenue proposal has been adopted, at least on first reading, with section 17 amended, and I am opposed to the amendment offered by the gentleman from Chicago, Mr. Sutherland, and I am opposed to it because I am opposed to section 17, in its entirety, and I propose to vote against it as I propose to vote against section 17—the proposed amendment of Mr. Sutherland—is somewhat of a partial relief, as far as it goes, but under the revenue proposal, so far approved, and section 17, and with the amendment you say is adopted, Chicago will be in this condition, that the city can go into bonded indebtedness to the extent of ten per cent of the full value of its property, which is at least twice what it can do now, even if the legislature provides that property shall be assessed at its full value. As a matter of fact the total taxing indebtedness capacity of Chicago runs up to about seven or seven and a half per cent, including some of the municipalities that have been held by the Supreme Court not to be within the five per cent city limit, but when you read sections 8, 9, 10, 11 and 12, the City of Chicago is given the right—and a right of which I predict it will undoubtedly avail itself—of going into indebtedness to the extent of fifteen per cent of the full value of its real estate, and add to that fifteen per cent the ten per cent, which will be the limit if the proposed amendment be enacted, and you have property, real estate, which constitutes about nine-tenths of the assessed property in Chicago, subjectable to assessment on the basis of twenty-five per cent, a bonded debt limitation of twenty-five per cent of the full value of the property; and that is a liability which is not limited to the revenue in any way derived from the public utilities. In other words under the revenue proposal which requires, by the way, no particular vote of the City Council, there is nothing in that act at all which requires any particular vote of the legislature, or any particular vote of the City Council, all that is required is three-fifths majority of the electors voting on the proposition, which may in fact be less than one-fourth or one-fifth of the total voters in the City of Chicago—statistics and experience combined show in the City of Chicago it is a rare thing to have one-half of the total vote cast on a regular proposition cast on public matters, usually it is from one-third to two-fifths, rarely is it one-half, and there is no reason to expect a change—if therefore in the future

the question of buying a public utility arises, nothing in the law whatever requires two-thirds vote of either or both houses of the legislature to first enact the provision, nothing other than a mere one more than one-quarter of the membership of each house, and nothing requiring more than two-thirds of the City Council—

Mr. SUTHERLAND (Cook). Have you read line five of section nine of the proposed revenue article, which says the General Assembly may by general law authorize, etc.?

Mr. MAYER (Cook). I have read all of the sentences.

Mr. SUTHERLAND (Cook). A general law can only be passed by a constitutional majority of both houses, Mr. Chairman.

Mr. MAYER (Cook). If that is the law, I will stand corrected; that is the law as to all legislative enactments?

Mr. SUTHERLAND (Cook). That is the present constitutional requirement for the passage of all laws.

Mr. MAYER (Cook). That is the law as to all legislative enactments?

Mr. SUTHERLAND (Cook). As to all legislative enactments, except constitutional amendments which require two-thirds vote of both houses.

Mr. MAYER (Cook). Irrespective of whether they are revenue provisions or not?

Mr. HULL (Cook). Absolutely.

Mr. MAYER (Cook). I stand corrected, so that we have one more than half of each house, with no requisite as to a vote of the City Council, and there is nothing in the Constitution or in the law, nothing in the charter of Chicago—as to which I profess as much familiarity as my learned friend does with the constitutional government governing the legislature—one more than one-half or one more than a quarter constitute a quorum, is all that is necessary to pass a law constituting an ordinance of the City of Chicago, and there is nothing in this provision—

Mr. SUTHERLAND (Cook). Do I understand you to say that an ordinance can be passed by the City Council of Chicago by less than a majority of the members thereof?

Mr. MAYER (Cook). I so understand, other than an appropriation, I so understand it, I would not be sure.

Mr. SUTHERLAND (Cook). My understanding was different from that, it is only an understanding from long observation and experience, I supposed it required thirty-six out of the seventy aldermen to pass an ordinance.

Mr. MAYER (Cook). All that is required is a majority of a quorum; a quorum is one more than one-half, is my recollection. I am not speaking now of making an appropriation,—perhaps there are some members of the Convention who have been members of the city council, but it is my recollection that the rules of procedure governing the city council require that a quorum shall consist of one more than half of the majority of the members. I am not speaking now of appropriations.

Mr. SUTHERLAND (Cook). I am informed reliably by one who knows that it requires a majority of the members of the city council, or thirty-six out of seventy.

Mr. MAYER (Cook). If that comes authoritatively I will accept the correction. I would like very much, however, to look at the city code; it is my distinct recollection, except as to appropriations or sale of real estate or purchasing of real estate or the granting of a franchise that a quorum consists of a majority of a quorum—however we will easily settle that between now and tomorrow morning. However, the argument is none the weaker when we consider that with sections 8, 9, 10, 11, and 12 and section 17, the City of Chicago can go into indebtedness—bonded indebtedness—to the extent of twenty per cent with your amendment adopted, and to the extent of one hundred per cent and no limitation without the amendment. Now I am opposed to the City of Chicago or any other city in the State being given such unlimited power, as I said before adjournment it tends to work and threatens to work gross and grave injustice. The only interests that have been clamoring for increase in the debt limitation, the only interests

are the politicians, and the members of the City Council; that is all. The City of Chicago has not been denied its urban necessities. There has been an obstacle and opposition in the way of extravagant expenditures and of the purchase of municipal utilities, but putting those aside, all that you need do is to look at the votes at the last two elections upon the proposed bonded indebtedness. The proposals were voted down. Those bonds if approved would have enabled the making by the city of the proposed public improvements, or proposed the making of improvements. Those members of the municipal machinery, who probably not one in fifty pays one dollar taxes,—I remember of reading, and I presume it was accurate, a statement that of the total membership of the City Council about one-half paid no taxes at all and that nearly the entire other half did not pay to exceed one hundred dollars a year in taxes. Now organized opposition is a very rare thing in cities, but an organization which seeks to enlarge the borrowing capacity or the opportunity to expend money is more easily obtained because it is an organization that is usually lead by men who are in political power. Now let us talk frankly and candidly with one another—who are hollering for the municipal ownership of public utilities? The people? Or the fictitious apparent public cry which is created by propaganda instituted either for political or other purposes? Under your revenue proposal you permit the City of Chicago to borrow fifteen per cent of its total value, real estate valuation, and I suppose the full real estate value of Chicago will exceed one billion dollars, probably two billion, and you clothe the public authorities with the right and the power to borrow from one hundred and fifty to three hundred million dollars and the money so borrowed becomes an actual municipal indebtedness, whose payment is not dependent upon the earnings of the security for which the taxpayers' money have been appropriated. It is true you may be able to run your street cars at three cents or four cents or five cents, under this proposed law; the bonds issued in order to pay for the purchase price of those utilities are a tax liability against the property of the city, and their payment is not confined to the earnings of the utility.

Now there is such a thing as driving to madness. No political lash, whether wielded by political office holders, by men in power, by journalists or others, should have the power to terrorize us into accepting legislation which will work or may work such gross and serious injustice. The Constitution of 1870 limited the indebtedness, the bonded indebtedness, to five per cent. We have gotten along very well. That limitation has been the saviour of the manufacturers, the merchants, property owners, and taxpayers of this State, and that limitation, gentlemen, was not as necessary in 1870 as it is now. In 1870 the population of the cities of the State of Illinois was not nearly as heterogeneous as it is now. In the City of Chicago you probably have the most heterogeneous population of any city in the world, law-abiding, honest, well-intentioned, good minded people, but it is easy, it is not difficult to create sentiment by propaganda, by agitation, by means of movements, because as I have said back of the concerted movement there is an organization with brains, with money, with power, and resistance to such an organization is ordinarily disorganized, disintegrating, or a disintegrated collection of citizens, who act haphazardly and do not act together. If it was necessary in 1870 to limit the municipalities to five per cent, it is more important that we do so now, because there is more at stake.

Mr. HULL (Cook). May I ask the gentleman a question? You know that the limitation provided in the Constitution of 1870 has been evaded many, many times?

Mr. MAYER (Cook). Yes.

Mr. HULL (Cook). And one of the processes of evasion has been the creation of these new taxing and borrowing districts? Now we of the Chicago committee sought to get rid of that method of evasion by providing that additional districts would not be created, which would create excessive taxes. That was put in in 1870 but it has not been a limit on the borrowing power, not even to the city or other municipalities—

Mr. MAYER (Cook). To which I will reply, Mr. Hull, if there have been evasions since 1870 I think you will experience similar attempts at evasion

after 1920. As long as there are tax gatherers and tax spending political institutions, and lawyers, there will be efforts made to evade such limitations.

Mr. HULL (Cook). I don't doubt it at all. There is nobody in this Convention, as there has been nobody in the legislature who has been more interested in the past few years in keeping down excessive expenditures in the city than I have, but I know that this pressure will come to our population in one form or another, and the opinion of the committee was that the best way to meet the situation was to confine the additional expenditures to one city government, and to require that these functions which are now scattered through the various organizations to be performed by one city government, to meet the situations, such as have arisen in the past. It was my suggestion that there should be some actual provision governing the additional power of borrowing. We had in mind the Sanitary District buying its method of disposing of sewage, that possibly it may be compelled to put into operation some subjective system—I don't know whether that is what you call it, but some system disposing of the sewage which may involve an enormous expense. When that situation comes up shall we go ahead and create another district? We don't want any more districts. It must be done through the one corporate government of Chicago. No man is wise enough to look ahead and tell us fifty years ahead what the needs of the population of that great city will be. We don't want to sit here and fix and determine, in our position here, that those things will not be necessary, and we tried to safeguard in this proposal by some reasonable check that possible situation, by requiring the legislative action, the referendum vote, which would not take merely a majority of this vote on the proposition but sixty per cent of those voting on the proposition. Now the gentleman has talked—

Mr. MAYER (Cook). I have not concluded. I have no objection to your interruptions, but you asked to put a question.

Mr. HULL (Cook). I did not mean to make a speech, I will stop there.

Mr. MAYER (Cook). Let us take section 17, with which we have been dealing; the chairman of the committee says they have undertaken to try to protect themselves against these emergencies, but if it were not for the amendment that Mr. Sutherland suggested, we would have no limitation, and if nothing comes of this debate, we have at least invoked the ten per cent limitation, ten per cent of the full value of the property; so some good has come of this discussion, an amendment to which I understand the chairman of the committee does not object. The chairman of the committee has argued that this law is drawn so as to prevent evasions and drawn so as to limit the creation of new municipalities each one of which would have a five per cent bonded indebtedness power. Let us see whether he did so or the committee did so. Section 17 provides that the General Assembly shall have power to permit the City of Chicago—what City of Chicago, the consolidated city? No. Suppose there is no consolidation voted, under section 15 and the preceding sections of article two, of the Chicago and Cook County bill, suppose the people do not vote in favor of the consolidation, in any of the municipalities in Cook county with Chicago? Then each of those municipalities would still have its taxing power and its authority to create a bonded indebtedness, and we will have the City of Chicago—the General Assembly shall have power to permit the City of Chicago to become indebted in any amount, not the City of Chicago after it has been consolidated with Cook county, or the forest reserve, or the parks, or the sanitary district, but the City of Chicago as it exists today, so that this section is not circumscribed with those checks and balances which you look for in an effort to prevent these evasions to which the chairman of the committee, as well as myself, have called attention. No one of us is here to get a negative or an affirmative vote, merely to say I have won out; it is not a law suit before a court or a jury, it is not a question of whether you or I win, it is not a question of whether it is Mr. Hull's amendment or opposition or Mayer's amendment or opposition wins. The question is what does a clear, impartial, unprejudiced analysis of the law lead to? Now I say that section seventeen, without the amendments, in the City of Chicago, with the consent of the

legislature it is true, and two-thirds vote of the council and three-fifths of the voters voting on the proposition, the right to increase its indebtedness—in the language of a famous poker player from New York “the sky is my limit,” and so it will be for the City of Chicago.

I have alluded not only to section seventeen, but I have alluded to the sections of the revenue proposal which to my mind are just as serious, in fact more dangerous, than section seventeen, and if I have misconstrued the meaning of section seventeen, I would like to be interrupted. If I have misread the meaning that the City of Chicago has the unlimited right to issue bonded indebtedness to any extent I want to be corrected. I subserved no purpose in making a premise which falls to the ground by reason of its inaccuracy or by building upon an argument which is shown to be erroneous. The people of the State of Illinois are just as much interested as the City of Chicago is and I insist more interested to protect us against ourselves, if necessary, because the State will not be the big and prosperous State or fourth State of the Nation, if the city with nearly one-half of the population of the State is bankrupted, so I say to you gentlemen, and most of you have interests, or clients who have interests, material interests in the City of Chicago, and as I feel justified in quoting, without giving the name of the speaker, one of the members of this Convention in walking from this hall towards the hotel at the recess at six o'clock today told me, that he had advised all of his clients that if this section goes through they should withdraw their investments from the City of Chicago.

Now, the situation is this: You have got, first, the propelling power, and those who are in authority always seek more power, always to get more money, to have more money to spend. We have had indebtedness created by those methods. We have the purchase of the public securities of Chicago, which I believe is a forgone conclusion if this law passes. We have the City of Chicago with authority to increase its bonded indebtedness \$150,000,000 to pay for the public securities, or 200 million, and you gentlemen know that the value of the real estate of Chicago is not a fixed quantity. It is elastic. It is what the assessors see fit to put on it, and if the assessors are part and parcel of the same political party, whether it be democratic or republican, and train together, the value of real estate can be advanced 50 per cent or 100 per cent, and there is no redress, and the bonded indebtedness increased in the same scale as the value of the real estate is advanced.

The chairman of this committee has some familiarity with real estate through his own large representative holdings for his clients and his customers. He knows that the value of real estate in Chicago is elastic when it comes to assessments. I am covering the situation not merely with reference to section 17, but with reference to the revenue law which is part of the code and part of the Constitution which this Convention undertakes or is going to undertake, to enact.

Now, I come back and say, who is calling for this unlimited bonded indebtedness? The city council of Chicago. Are there any large important civic bodies, tax payers, representative organizations, real estate bodies, real estate owners, merchants, manufacturers or bankers asking for this kind of a constitutional provision? If they are I have not heard of them. The City Council of Chicago has been and perhaps still is here ably represented by committees, but the City Council of Chicago is composed or will be composed of 50 members. The total taxes paid by all of the members of the city council probably is not sufficient to pay the interest on \$100,000 of bonds. So I am talking not for the city council. I am speaking for those in Chicago upon whom this burden will rest.

I again urge that the amendment which has been proposed is only a half way limitation, and that has come at the eleventh hour and only after this debate and struggle has begun on the floor of this Convention. So far as looking ahead 10 years, or 20 years or 30 years, the charter of the City of Chicago can be amended in the manner that is proposed, and if there exists that necessity 10 years or 20 years or 30 years from now, the machinery to do it exists, and the machinery exists in the City of Chicago, subject to the approval or concurrent action of the legislature.

Gentlemen, I urge that the members of this Convention think twice before they vote to adopt section 17, either as it now reads with this unlimited and unrestricted power of indebtedness, or with the amendment; and bear in mind the amendment which is offered only goes to a limitation of the City of Chicago not as consolidated. The taxing power and bonded indebtedness power of all the other municipalities in Cook county will remain the same—Sanitary District, Forest Preserve, parks, school board, and the other taxing bodies, and I think there are 28 of them, and the City of Chicago, standing as it is today, will have this power to increase its indebtedness four times; that is, upon the basis of property as assessed at 50 per cent, it will be just four times, and that, too, provided the assessment remains unchanged; and as I have indicated, the assessment is like a piece of India rubber, which can be stretched to suit the whims and fancies and desires of the political power that wishes to exercise the taxing authority.

Mr. TRAUTMANN (St. Clair). Mr. Mayer, I want to ask you a question. Section 17 following these other sections with reference to consolidation, do you feel that that applies to anything but a consolidated city?

Mr. MAYER (Cook). I have no doubt about it.

Mr. TRAUTMANN (St. Clair). It does not say so, but I was wondering if it did not really refer to a consolidated city and not to the city as organized today?

Mr. MAYER (Cook). All you need to do is by turning to the prior section you will observe that when they speak of the City of Chicago as consolidated—section 15—"In the event of any one or more of the municipal corporations lying wholly or partly within the city becoming consolidated," and so forth.

Mr. DUNLAP (Champaign). Mr. Chairman, I just wish to know if the delegate from Cook, Mr. Mayer, thinks that the principle of home rule would be of very much value if section 17 were stricken out?

Mr. MAYER (Cook). Well, home rule without restrictions is to me a poisoned chalice.

Mr. DUNLAP (Champaign). Don't you consider there are some restrictions in this section?

Mr. MAYER (Cook). None in section 17.

Mr. SUTHERLAND (Cook). Mr. Mayer, would you be willing to put the Constitution into such rigid condition that under no circumstances could the City of Chicago exceed the 5 per cent limitation on its debt incurring power?

Mr. MAYER (Cook). I would not.

Mr. SUTHERLAND (Cook). You then have two alternatives, have you not? The present possibility of getting around that limitation through the creation of additional tax levying bodies, each with its own debt incurring power, or some such provision as is proposed in section 17.

Mr. MAYER (Cook). Now, you have presented to me a menu which includes the revenue law and section 17 of the Chicago and Cook county bill. In other words, I would not consider section 17 independently of the revenue proposal in which we have the 15 per cent limitation. If I knew that the City of Chicago's bonded indebtedness could never under any circumstances be increased beyond 10 per cent, I would be willing to swallow that dose of cod liver oil, but when at the same time you prescribe for me in the same prescription a 15 per cent real estate full value bonded indebtedness, I call a halt. The difficulty is that you are not presenting section 17 as an entirety, but section 17 as part and parcel of certain articles which are going into this Constitution, particularly the revenue act, and I have said nothing whatever about the income provisions.

Mr. SUTHERLAND (Cook). Does the gentleman think that in addition to the 15 per cent limitation allowed in sections 9, 10, 11 and 12 of the proposed revenue article, that there could be no possibility ever of the city's exceeding the 5 per cent limit on its indebtedness for general corporate purposes?

Mr. MAYER (Cook). If those sections 8, 9, 10, 11 and 12 are in, by all means.

Mr. SUTHERLAND (Cook). You think that you would oppose any extension of the 5 per cent except a specific 15 per cent for use for public utility purposes only?

Mr. MAYER (Cook). Now, you are making a negative pregnant out of me. I did not say I would not oppose 8, 9, 10, 11 and 12.

Mr. SUTHERLAND (Cook). No, I beg your pardon. I think you misunderstood my question. Are you opposed to the city's having power to incur debt for corporate purposes in excess of the 5 per cent, so long as it is given the power to incur to the limit of 15 per cent indebtedness for public utility purposes alone?

Mr. MAYER (Cook). I am decidedly opposed to it.

Mr. SUTHERLAND (Cook). So that so long as that grant for public utility purposes exists, you think that the 5 per cent is sufficient for corporate purposes, even after consolidation?

Mr. MAYER (Cook). I do, because it is entirely within the power of the legislature to levy taxes based upon the full value of the property. That would increase it a hundred per cent. If it is within the power of the assessors to keep on increasing the value of real estate, do you think the people of Chicago want the 15 per cent bonded indebtedness unlimited and unrestricted, with the bonds not restricted to the public utility?

Mr. SUTHERLAND (Cook). I don't know. I hope they don't.

Mr. MAYER (Cook). Did you vote in favor of putting it in the bill?

Mr. SUTHERLAND (Cook). I did all I could to put it in the bill because I think it is a vast improvement over the present situation, which is absolutely unguarded.

Mr. MAYER (Cook). That is, under the present Constitution they can buy utilities?

Mr. SUTHERLAND (Cook). Under the present Constitution they can buy utilities, they can create districts for that purpose, one on top of another, without stint and without the referendum of the people of Chicago.

Mr. MAYER (Cook). And issue bonds to pay for them?

Mr. SUTHERLAND (Cook). And issue bonds to pay for them, for the purchase and construction or anything else that they want to do.

Mr. HULL (Cook). So far as any constitutional limitation is concerned.

Mr. SUTHERLAND (Cook). There is no constitutional limitation to the contrary.

Mr. MAYER (Cook). Well, then, the City of Chicago ought to be well satisfied with what exists. Evidently they are not.

Mr. HULL (Cook). No, we are not satisfied. Some have thought that if it is going to be done at all, it should be done through the one corporation and not by the creation of any additional corporations, and that it should be done with certain safeguards that would, as far as they could be created, make the utility a self-sustaining proposition.

Mr. MAYER (Cook). Do you contend, Mr. Hull, that under section 17 you have accomplished that?

Mr. SUTHERLAND (Cook). No, but under sections 9, 10, 11 and 12 we have.

Mr. MAYER (Cook). I am speaking now of section 17, of the unrestricted power to borrow.

Mr. SUTHERLAND (Cook). Mr. Chairman, section 17 does not go to the power of financing utilities, because that is taken care of specifically under section 12.

Mr. MAYER (Cook). But what is there to hinder, under section 17, the public authorities of Chicago borrowing any amount of money for any corporate purposes?

Mr. SUTHERLAND (Cook). Mr. Chairman, I propose to discuss section 17. We cannot very well disregard, it is true, some reference to the revenue sections in the revenue article of a similar character. For the purpose of clearing the record I wish to quote section 41 of the Cities and Villages Act, which is found in the chapter on the city council, which reads:

"Yeas and nays shall be taken upon the passage of all ordinances and on all propositions to create liability against the city, or for the expenditure

or appropriation of its money, and in all other cases at the request of any member which shall be entered on the journal of its proceeding, and the concurrence of a majority of all the members elected in the city council shall be necessary to the passage of any such ordinance or proposition."

Mr. MAYER (Cook). What do you mean by "such ordinance or proposition?" You are speaking of ordinances as to appropriations, and so forth?

Mr. SUTHERLAND (Cook). No, to create any liability against the city.

Mr. MAYER (Cook). You are not giving me any further information than what I stated.

Mr. SUTHERLAND (Cook). And certainly an ordinance of this sort would be one which would come in that class. Furthermore, one member of the council may demand such a vote.

Now, Mr. Chairman, it seems to me that we have simply to decide here as to whether we prefer to do one of three things: Either to say flat that the City of Chicago shall have a fixed constitutional limit on its indebtedness beyond which under no circumstances, under no emergencies it can go, or, two, to permit the present situation to continue so that we will be able to meet crises and emergencies which may arise, as the one which arose which necessitated the creation of the Sanitary District of Chicago, by creating a new taxing body, and we already have too much of that. The third is to provide some more elastic means than we have now, of holding one governmental body responsible for the government of the city in its affairs instead of having several, of getting all the tax payers' interests under one roof, in one ring of the circle where he can keep his eye on the main proposition and not have his attention distracted by innumerable performances going on at the same time.

We have tried to do the latter in section 17. It does not do it as well as I would like to see it. The chairman will bear me out that I signed this committee report with reservations as to this section. I would much prefer, if I thought it safe, to have a flat limitation upon the bonded indebtedness of the city. The distinguished delegate from Cook who has just taken his seat, and who has illuminated this discussion and given it a most valuable turn, which has been most helpful, is quite right when he says that the principle drive at the present time for a greater bonded debt limit comes from the city council. However, the distinguished speaker of the House of Representatives, who sits in this body, will bear me out when I say that the great drive that finally put over the last increase in the limit on bonded indebtedness in the last session of the legislature did not come from the city council so much as it came from outside agencies and from gentlemen in the City of Chicago who ought to represent the tax payers if they do not, and I refer to the Chicago Plain Commission and the eminent gentlemen connected with that, and their friends and associates.

Now, Mr. Chairman, I hope that this amendment will prevail. I don't think the section will be complete even then, and I have other amendments that I propose to offer. For one I propose to offer an amendment to put in the word in line 2 of section 17, after the word "Chicago," the words "after consolidation," to make it clear that this elasticity can apply only after there has been a consolidation of the taxing bodies now existing, and then we will have a greater limitation than we have at present, and we will have some elasticity. Mr. Chairman, the amendment now before the house is the one which the secretary has just read, and I hope that that amendment will prevail.

(Amendment adopted.)

THE CLERK. The next amendment offered by Mr. Sutherland reads as follows: "The limit of special indebtedness made possible under sections 9, 10 and 11 of the revenue article shall in no case be increased under the provision of this section."

Mr. SUTHERLAND (Cook). The purpose of that amendment is to make it impossible to increase that 15 per cent limitation by the operation of the machinery set up in section 17.

Mr. HULL (Cook). That is, the purpose is not to make it possible by the operation of the machinery set up in this section to have a 20 per cent borrowing power upon the real property of the city for utility finances?

Mr. SUTHERLAND (Cook). Exactly. I move the adoption of the amendment, Mr. Chairman.

(Amendment carried.)

Mr. SUTHERLAND (Cook). I desire to offer the following amendment and move its adoption: Amend section 17 as follows: "Insert in line 2 after the word "Chicago" the words "after consolidation."

Mr. MAYER (Cook). I desire to ask a question. You mean consolidation with the Sanitary District or the Forest Preserve, or with them all?

Mr. SUTHERLAND (Cook). Mr. Chairman, I should have made that more general. I intended to cover all of the consolidations referred to in section 15, which is entitled, "debt limit after consolidation."

CHAIRMAN WILSON. How will the amendment read then?

Mr. SUTHERLAND (Cook). The amendment would read as I have offered it: "The General Assembly shall have power to permit the City of Chicago after consolidation"—you might add there, "after consolidations referred to in section 15."

Mr. HULL (Cook). In this section 15, please remember it provides that in the event of any one or more of the municipal corporations lying wholly or partly within the City of Chicago is consolidated therewith, this debt limit to apply. Mr. Sutherland, you are getting into a difficult situation which I think you want to carefully avoid. I doubt whether that is a wise amendment.

Mr. SUTHERLAND (Cook). Mr. Chairman, I have this feeling about it, that without that amendment I would not care very much about this section. I realize there are some difficulties. I think there ought to be some difficulties, and I will change that amendment to read, "after consolidation with the City of Chicago of any of the municipal corporations lying wholly or partly within said city."

Mr. SHANAHAN (Cook). That might apply to one or two park districts only.

Mr. SUTHERLAND (Cook). No, to all municipal corporations lying wholly or partly within said city.

Mr. MAYER (Cook). You said "any."

Mr. SUTHERLAND (Cook). I should have said "all." I move the adoption of the amendment, Mr. Chairman.

Mr. MILLER (Cook). Mr. Chairman, I want to ask Mr. Sutherland a question. That then is a limit of 10 per cent upon the assessed valuation after consolidation?

Mr. SUTHERLAND (Cook). Yes, sir.

Mr. MILLER (Cook). Well, that is more restricted than section 15 as it now stands, because it is 5 per cent of the full valuation after the consolidation of the city with any one of those taxing bodies.

Mr. SUTHERLAND (Cook). I don't think that we can afford to be any more generous than that.

Mr. HULL (Cook). Section 15 is what was approved in a popular vote of the amendment to the present constitution. You are going to restrict it.

Mr. MILLER (Cook). Section 15 is now a copy of what is in the present Constitution, and this is restricting that debt creating power of Chicago more than it is in the present Constitution, and at the same time is taking away the power of the legislature to create any new debt creating bodies or corporations over the same territory.

Mr. SUTHERLAND (Cook). Mr. Chairman, while it is true that it may be a greater limitation, as a matter of fact I think it is not a greater limitation. It was the thought when that amendment to the Constitution was adopted that the consolidation would not be limited to any one of those taxing bodies, but would include all of the larger taxing bodies, and that new limitation of 5 per cent of the full value was deemed to be sufficient to take care of that situation. Now, if that was supposed to be sufficient to take care

of that situation, certainly twice that provision will be sufficient to take care of it in future years.

Mr. MILLER (Cook). Well, this is not twice; it is less. Just a few words on this. I fear, Mr. Chairman, and gentlemen, that we are getting into difficulties. I personally would like to see the debt creating power limited just as much as it is safe to limit it. I do not want to see any wide open door to debt creating power, but here is the situation as we have it: In this article we have put a real limitation upon the debt creating power, whereas, now we have merely a nominal limitation. The limitation now amounts to nothing. The legislature can create new taxing bodies, tax levying and debt creating corporations whenever it sees fit, and when some of the gentlemen who are now here tonight were absent we discussed the situation of the creation of a new traction district which would have borrowing power enough in all probability to acquire the street car lines and probably the elevated lines of Chicago, without any constitutional amendment and without even any referendum, simply by action of the legislature in its ordinary way.

That we undertook to remedy by certain sections which one of the gentlemen has referred to here tonight. Now, we have here this situation: Under the present Constitution after consolidation, the debt creating power of Chicago, after consolidation with any one of those other taxing bodies, would be limited to 5 per cent of full valuation. That would be just twice what the debt creating power of one of the five debt creating bodies has now. In other words, the debt creating power would then be reduced from 25 or 30 to 10, that is the correct way of putting it; that is, from 25 or 30 per cent of the assessed valuation to 10 per cent of the assessed valuation.

At the present time between 7 and 8 per cent of the assessed valuation of debts have already been created by those debt creating and tax levying bodies. If this amendment is adopted, why, the restriction would be not merely that in the present Constitution, but would be a very much more stringent one than that in the present Constitution after consolidation, because it would be after the consolidation of all before they could increase this debt creating power, whereas, now it is after the consolidation of the city with any one of them; and, furthermore, we have shut off in this article the power of the legislature to create new debt creating bodies. Now, personally, I do not believe that that is going to work. I think it is very much more stringent than the present Constitution, and while I am willing and have proposed to create some restrictions greater than those now existing, this seems to me to be too great.

Just a few words: If there is any gentleman in this room that thinks that the proposal without this last amendment by Mr. Sutherland is going to be a wide open door for creating debts in Chicago, I hope that he will vote against this article, because I would do so if I believed that, and my present disposition to vote in favor of this article after some misgivings in the start, as I have stated, has been due to my belief that that is not a wide open door to debt creating enterprises in the City of Chicago. In the first place, what does it mean? You have got to get a vote of the legislature, just the same vote you have got to get to create a new taxing body. That is one thing. Next, a two-thirds vote of the city council; next, a 60 per cent vote of those voting on the question, and I have just been handed by one of my Chicago associates a little memorandum of some of the votes in Chicago on public policy questions, and on authorizing bonding issues, and I find that the total percentage of the vote on proposition and the total vote at the election ran as follows:

Seventy-three per cent, 58 per cent, 85 per cent, 85 per cent, 64 per cent, 72 per cent, 65 per cent, 71 per cent, 71 per cent, 69 per cent, 70 per cent, 70 per cent, 78 per cent, 76 per cent, 90 per cent, 83 per cent, 79 per cent, 74 per cent, 67 per cent, instead of two-fifths or one-third. I also find that on various bond issues the votes were as follows:

For 25 per cent, total 64 per cent; that was lost. Another one, for 34 percent, total 72 per cent; that was lost. Here is the same thing in bond issues: For 25 per cent, total 65 per cent. Another bond issue, for 34 per

cent, total 71 per cent; that was lost. Another bond issue, for 34 per cent, total 69 per cent; that was lost. Another one, for 35 per cent, total 70 per cent; that was lost. Another one, for 41 per cent, total 59 per cent; that was lost. And we who came from Chicago all remember that recently two other proposed bond issues were lost.

In other words, this pamphlet entitled, "Initiative, Referendum and Recall," gotten out by the Legislative Reference Bureau upon the various referendum votes in Chicago on the various things records a majority of all the bond issues submitted to the people during the time that this records the fact as lost. And that was not with the 60 per cent vote. That was with a 51 per cent vote of those voting on the question.

Now, as I said, I would have only one quarrel with anybody in the Convention on the adoption or rejection of section 17, and that is on the question as to whether that is a wide open easy method of increasing debts. I am for the two amendments already adopted to this section, but I am against this one. I do not believe it is necessary, and I am for this because I believe it is a safe and conservative method and provides for a method of increasing the debt when it is necessary by a vote of those who are interested, as well as a vote of the legislature and a two-thirds vote of the city council. There are three safeguards that are not in the votes on bond issues, the result of which I have read. One is the 60 per cent vote; another is the two-thirds vote of the city council and another is the vote of the legislature. We pile three of those safeguards on top of the present referenda for bond issuing purposes. Now, if I am wrong, or if anybody believes that my conclusion is wrong that that is a safe and conservative home rule measure, I hope he will vote against section 17.

Mr. HAMILL (Cook). Mr. Chairman and gentlemen of the committee: I have refrained from debating this article because I have not felt that I knew a great deal about it. I have had my own troubles, and I have had to rely upon the members of the Chicago and Cook County Committee to steer me properly on this question. With such information as I now have it seems to me that the proposed amendment is not wise, because it is not consistent with section 15 which we have adopted. It has occurred to me that perhaps the end sought can be accomplished in another way. I am disposed to think that the danger pointed out by Mr. Mayer, that the debt may be increased by the city before consolidation, is a real danger and should be avoided, and it is to avoid that danger that I take it the present amendment is offered. I submit this suggestion to the gentlemen who know more about it than I do, for their consideration: If there should be a provision that for the consolidation of each one of the other tax levying and debt creating bodies occupying all or a part of the same territory as the city, there might be an additional one per cent of debt, with a provision that when all of them were consolidated there was to be an increase of five per cent, then you would have an inducement to bring about a consolidation of them all; you would have no increase without some consolidations, and the increase would be graded according to consolidation.

CHAIRMAN WILSON. The question is upon the amendment of Mr. Sutherland.

Mr. HULL (Cook). Mr. Chairman, I think the amendment is an unwise one, and it conflicts clearly with the provisions of section 15, and ought not to be adopted.

Mr. SUTHERLAND (Cook). Will the chairman of the committee yield to a question? What do you think of the suggestion made by the chairman of the Phraseology Committee?

Mr. HULL (Cook). I was going to speak of that, and my objection is that the debts do not go off in any such equal ratio that you can divide it into one per cent for every debt increasing district.

Mr. SHANAHAN (Cook). Mr. Chairman, I am in favor of the amendments that have been offered by the gentleman from Cook, Mr. Sutherland, to this section, and have voted for them and will vote for the other one, but I shall vote against the adoption of this section of the proposal. Personally, I feel that about the only safeguard that is here is the three-fifths vote of

the people on this proposition and I speak from experience; that the two-thirds vote of the city council is merely a compliment to the city council in putting it in here, but as a rule the only people that are asking for bond issues are the public officials who desire to spend money. As to the proposition of getting the approval of a majority of the General Assembly, the pressure will be brought upon the members of the General Assembly from Cook county, strong pressure, to vote for the proposition, and the country members will be, as the country members have here this evening, wanting to know what Chicago wants, and if Chicago is satisfied with it, there is no reason why the members from the country should object. Now, I feel that too many safeguards cannot be thrown around the bonding power given to any municipality. Personally, I feel that the nation, that the State, the counties and the municipalities are all overbonded, and that we should be very careful in adopting this section of this proposal, and personally, I am opposed to it.

Mr. HULL (Cook). Did you say that you would be against the section under any circumstances?

Mr. SHANAHAN (Cook). That is the present section.

Mr. HULL (Cook). Well, with Mr. Sutherland's amendment would you be also opposed to it?

Mr. SHANAHAN (Cook). Yes, I would be opposed also to that amendment.

CHAIRMAN WILSON. The question is upon the amendment offered by Mr. Sutherland.

(Amendment adopted.)

Mr. SUTHERLAND (Cook). Mr. Chairman, I wish to offer another amendment and move its adoption. Amend section 17 by inserting the following sentence just before the last sentence of the section as it now stands:

"Such an ordinance if rejected shall not be resubmitted within two years from the date of such original submission."

That amendment, Mr. Chairman, is designed to keep the voters from being worn out until their resistance is completely demolished in the event they do not wish to exceed the set limit of bonded debt.

Mr. MAYER (Cook). Isn't there an amendment that was passed about ten years?

Mr. SUTHERLAND (Cook). The limit shall not be increased, that such an ordinance be not adopted oftener than once in ten years. I had originally phrased that amendment so as to provide for the submission, but at the request of the delegate from the seventh district, Mr. Miller, I so changed it that it read "shall not be adopted oftener than once in ten years," so that that is a limitation on the frequency with which the limit can be raised, and this is a limitation on the frequency with which the question can be submitted to the voters.

Mr. MAYER (Cook). Do you accomplish anything by that? If it cannot be increased oftener than once in ten years, what difference does it make how often it is submitted?

Mr. SUTHERLAND (Cook). Just to illustrate with this case: The General Assembly passes an act saying that the city council shall have power under this section to increase the limit to 8 per cent, and the council passes an ordinance pursuant to that act and the voters reject the ordinance. Under this amendment now pending that ordinance could not be re-submitted until two years later. In other words, it could not be re-submitted at the next election, whenever that might be.

Mr. MAYER (Cook). Suppose it be re-submitted two years afterwards and passed?

Mr. SUTHERLAND (Cook). Then for ten years that limit so fixed would stand under the amendment that we adopted some little time ago.

Mr. MAYER (Cook). So that you could not increase the limit for ten years, but you could re-submit every two years.

Mr. SUTHERLAND (Cook). No, you could not re-submit because it had not been rejected. This applies only to rejected propositions that may be re-submitted.

Mr. CRUDEN (Cook). Don't you think that this amendment is superfluous due to the fact that the General Assembly meets only once in two years, and that they could not undertake it any oftener than once in two years?

Mr. SUTHERLAND (Cook). As I understand it, the General Assembly might make their act of a continuing character, to be taken advantage of by the city council and the voters of the City of Chicago at any time. If my understanding is not correct, then, of course, the amendment means nothing, but it says that the General Assembly shall have power to permit the City of Chicago to become indebted to an amount to be fixed by it in the aggregate exceeding the limit prescribed by this Constitution, but such action of the General Assembly shall not become effective until approved by an ordinance of the legislative authority of the city, agreed to by two-thirds vote of its full membership, and by a favorable vote of three-fifths of the voters of the city voting upon the question.

Now, I see nothing in there to prevent the General Assembly from saying that it shall be in the power of the City of Chicago to increase its maximum limit of indebtedness to 8 per cent, and that the council may two years later, or whenever it gets ready, pass an ordinance, and the voters may vote upon it, because it is the ordinance that has to be ratified and not the act of the General Assembly.

Mr. HAMILL (Cook). Will the gentleman yield to a question? This comment that you made now has aroused my curiosity. "The General Assembly shall have power to permit the City of Chicago to become indebted to an amount fixed by it." You say by "it" you mean the General Assembly. Having in mind a well known rule of grammar that a pronoun refers to the next preceding substantive, I had supposed that the "it" referred to Chicago.

Mr. SUTHERLAND (Cook). I think that the supposition is well grounded, but it was not the intent of the committee, I believe, to have it so refer.

Mr. HAMILL (Cook). I am only seeking light as to the intent.

Mr. SUTHERLAND (Cook). The chairman will correct me, but my understanding was that the General Assembly was to have that power.

Mr. HULL (Cook). That would be upon the request of the city undoubtedly, any such proposal to come in.

Mr. HAMILL (Cook). I supposed it meant Chicago.

Mr. HULL (Cook). No, to the amount fixed by the General Assembly in the act providing for the license to increase the debt limit. I would like to ask Mr. Sutherland a question. I don't know whether it is entirely pertinent to this proposal, but supposing that there is no consolidation of the various taxing districts inside the city limits for several years to come, and some of these taxing districts incur additional indebtedness? It has been stated here that the debt increasing power is about 25 per cent upon the 50 per cent assessed valuation, or 12½ per cent upon the full valuation. Supposing the consolidation of these taxing bodies is postponed for some time and some of these other debt increasing bodies increase their bonded obligations to a considerable amount. The limitation of 5 per cent is upon the full value as shown in section 15, and would be inadequate in any such situation to the limitation that you provide in your previous amendment would be inadequate.

Mr. SUTHERLAND (Cook). It seems to me, Mr. Chairman, that that question goes to the amendment which has just been adopted, and in order to make your question effective, we would have to reconsider the amendment which has just been adopted and not the pending amendment.

Mr. HULL (Cook). I think it ought to be reconsidered.

Mr. SUTHERLAND (Cook). I have no objection to a reconsideration. Let us dispose of this amendment first.

CHAIRMAN WILSON. The question is upon the amendment of Mr. Sutherland.

(Amendment adopted.)

Mr. SUTHERLAND (Cook). Do you want a reconsideration?

Mr. HULL (Cook). I think it ought to be reconsidered. Here we have a number of taxing districts with borrowing powers covering the same terri-

tory. The 5 per cent limit of full value, as provided in section 15, will, according to present figures, give an additional borrowing power of approximately \$15,000,000. Now, some of those debt incurring municipalities are not limited by provisions requiring a referendum. They can borrow by the action of their corporate authority, for instance, the Sanitary District, and it is quite conceivable that their increase of borrowing would create a situation where the five per cent of the full taxable value of the property would not leave anything for the consolidated City of Chicago, fully aside from any action of the municipal authorities of the city itself. I think that ought to be reconsidered, Mr. Sutherland. I can not make a motion to reconsider and I am not in favor of the amendment proposed by Mr. Sutherland. I think a reconsideration is advisable, because we are going to run right into that trouble.

Mr. SUTHERLAND (Cook). Mr. Chairman, to get the question of whether the Convention wants to reconsider the matter before the house, and at the request of the distinguished chairman of the committee, I will move to reconsider the vote by which the amendment before the last was adopted, namely, the amendment providing that this section 17 should apply only after consolidation.

Mr. HULL (Cook). Now, Mr. Chairman, to renew the discussion, I think that amendment is inconsistent with section 15. Section 15 was put in because it was difficult to find a happy way of expressing it, and that has been approved. It was recognized that the 5 per cent provision in section 15 did not mean as much as it meant at the time the present section 33 or 34 of the legislative article having to do with consolidation was approved; that the debts of the municipalities that would be consolidated into the city had increased; that the margin of the borrowing power was less now under this provision than it was at the time that that section 33 was approved, but none the less it was felt that it left a margin, that it was an approved proposition, and that if we increased the percentage from five to six, we would be met by political argument which it would be pretty difficult to meet, namely, that consolidation was an economic proposition and it ought to reduce the costs of running the city, and to put in a larger per cent, therefore, than five per cent, which appeared in the old Constitution, would be creating political opposition.

So we left the provision for five per cent of the full value in section 15, and we incorporated that section practically as it is, and then we ran up against the general situation which has been described here, of a tendency to evade this debt limitation continually by the creation of new taxing and debt incurring bodies, and we came to the definite conclusion that that was a mistake. There was a suggestion made in the committee that it should be still possible to create new municipal corporations with the power to incur debts, provided it was safeguarded with a provision that it should require the sanction of the City of Chicago itself under certain formalities that were enumerated in the proposal, but we felt that that was not desirable, that the best way to meet it was to provide that there should be no municipal corporations created in that territory, and that if any condition arises requiring the creation of a new debt incurring municipality, we will meet that condition squarely as a financial issue, and not as an issue requiring the creation of new municipalities; and that experience, the experience of the city in referendum proposals covering proposed bond issues, has been such that we could with a considerable degree of confidence count upon their power to incur additional indebtedness not being abused.

My attention was called during the recess for the dinner hour to the action of the public at the election last spring. I believe it was, or relatively recently, that \$34,000,000 worth of bonds, which it was proposed to issue, five millions for playgrounds, five millions for a convention hall, fifteen millions for an electric lighting system, and nine millions for bridges, and you have heard it said that only a small portion were voted by the taxpayers. They voted every one of those bond issues down, and whether we have confidence in the government of the City of Chicago at any particular time or not, we have got to have confidence in the great body of voters in the City

of Chicago, and I have confidence that when any of these issues are properly explained to them, in the main they come right. I think that the amendment offered by Mr. Sutherland ought not to be adopted.

Mr. MILLER (Cook). May I ask Mr. Sutherland a question? As I understand it, one of your amendments now provides that any increase under this section 17 shall not be in addition to any under the sections of the revenue act referred to, is that correct?

Mr. SUTHERLAND (Cook). Yes, that it shall not increase that limitation for public utility purposes.

Mr. MILLER (Cook). That is what I mean. Now, this one provides that after consolidation, the city may increase its debts up to 10 per cent, the maximum by the process of section 17, of the assessed valuation after the consolidation of all those bodies.

Mr. SUTHERLAND (Cook). Yes.

Mr. MILLER (Cook). Well, now, section 15 already provides that after the consolidation of the city with any one of those it may increase its debt up to 5 per cent of the full valuation, which would be 10 per cent of the assessed valuation. In other words, this provision permits them to do something which is less than they already have the permission to do.

Mr. SUTHERLAND (Cook). I suspect that is true.

Mr. MILLER (Cook). And, of course, if that is so, it kills the section entirely. That is true, isn't it?

Mr. SUTHERLAND (Cook). I see what you mean. I rather hoped that something might come out of the suggestion made by the distinguished delegate from the 29th district.

Mr. MILLER (Cook). Now, may I ask another question? It being true that at present, that is to say, 5 per cent of the full valuation, would be about \$162,000,000, wouldn't it?

Mr. SUTHERLAND (Cook). Just about.

Mr. MILLER (Cook). And that would be the limit under section 15 which follows the present Constitution.

Mr. SUTHERLAND (Cook). Yes.

Mr. MILLER (Cook). Now then, at the present time the debts already incurred by those various taxing bodies super-imposed amount to about \$125,000,000.

Mr. SUTHERLAND (Cook). \$128,000,000.

Mr. MILLER (Cook). Something like that. There may have been some debts authorized since that, so that it brings it up to within 15 million, and a representative of the city government who is here says that there is no doubt in his mind that that balance of 15 million will be taken advantage of before the consolidation. Now, if that forecast, or anything like it, is correct, then even the limit we have set in section 15 will prevent a consolidation, will it not?

Mr. SUTHERLAND (Cook). That will discourage it except as to possibly one or more consolidations.

Mr. MILLER (Cook). Yes. In other words, it would tend to discourage, and in all human probability would absolutely prevent a consolidation of all of those taxing bodies so as to get a unified control and a unified system of taxation.

Mr. SUTHERLAND (Cook). Has the gentleman a constructive suggestion to make?

Mr. MILLER (Cook). Yes, I have, and that is just the thing I was coming to. Wouldn't it be a wise thing, as being amply protective, and also tending to encourage the consolidation of all those bodies, instead of to absolutely discourage it, to make that 10 per cent of the full valuation your limit there, and to make it then conditioned as you have it upon the consolidation of all of those taxing bodies?

Mr. SUTHERLAND (Cook). Well, Mr. Chairman, I have no particular objection to making it 10 per cent of the full valuation, but it does not change the present section 17 a particle as I see it, because the General Assembly can make that provision as section 17 now reads.

Mr. MILLER (Cook). But may I make this suggestion? The General Assembly cannot do that without raising the assessed valuation all over the State to the full valuation, isn't that correct?

Mr. SUTHERLAND (Cook). That is true.

Mr. MILLER (Cook). They are not likely to do that.

CHAIRMAN WILSON. Mr. Miller, may I ask you a question? Is this discussion relevant to the question now before the house for a reconsideration of amendment number 33?

Mr. MILLER (Cook). Yes, it is right on that point.

Mr. SUTHERLAND (Cook). I concede that point; I was in error. It would take State wide action with reference to the assessed value.

Mr. MILLER (Cook). And therefore, I am making that suggestion to the gentleman. In other words, if the amendment remains as it now stands, it makes the section entirely futile, and it simply would make it utterly in conflict with section 15, and it had better be voted down; but if it were made 10 per cent of the full valuation, it seems to me that it might serve a very useful purpose. In other words, section 15 as it now stands I am afraid will absolutely prevent any consolidations whatsoever.

Mr. SUTHERLAND (Cook). Mr. Chairman, if I might make a suggestion to expedite matters, I would suggest that the delegate who has just spoken make the motion to reconsider, or I will withdraw it; if he will simply move to amend the section as it now stands by inserting the word "full" before the word "value," that would be a proper amendment to make, and it would save a motion to reconsider, and it would bring the matter before the Convention at the same time. All you would have to do would be to put in the "full value of taxable property," to make the language coincide with the language in section 15.

Mr. MILLER (Cook). I move the amendment.

(Amendment adopted.)

Mr. SUTHERLAND (Cook). Mr. Chairman, I wish to offer an amendment and move its adoption: Amend section 17 by striking out the word "voters" in line 6 and inserting in lieu thereof the word "taxpayers."

Now, Mr. Chairman, if this amendment should be adopted and the Constitution should be adopted, Illinois would be setting no new precedent in the constitutional provisions of its sister states. There are a number of states which provide and require that the fixed limit of indebtedness in the Constitution may be exceeded by a vote not of the voters merely, the electors, but of the taxpayers. It seems to me that this will dignify the taxpayer, that it will tend to make more taxpayers, and in view of the fact that we are making provision for a reasonable income tax, that there ought to be far more taxpayers among the electors than there are at present, and I believe it should be adopted.

Mr. HULL (Cook). Mr. Chairman, I am reluctant to take issue with my conservative friend, but I think that it would be making a distinction which would revive trouble, and whether it has justice in it or not, that it is a very unwise provision to put in. Here is this reactionary Convention, according to some newspaper, trying to confine the City of Chicago in all of its benefits to the benefits that are to be created out of some of these issues of bonds, to be governed exclusively by all the tax payers. I think it would invite opposition, and I believe that in spite of the innuendo that has been thrown about the ear of the ordinary voter, that the political experience of the city with reference to these referendums has been such that there is not really any occasion to put in any such proposal as this. Mr. Miller recited some of the results in many of these bond issue proposals, and I spoke a few minutes ago about the defeat of several of them recently involving \$34,000,000, and I think it would be a mistake to invite this distinction.

Mr. TRAEGER (Cook). Mr. Sutherland, how are you going to determine who is a tax payer?

Mr. SUTHERLAND (Cook). I think that will not be difficult. It would simply be necessary to provide by law that no one would receive a ballot upon which this question was presented unless he could show a tax receipt

for the current year; whether for property or income taxes would be determined by the laws existing at that time.

Mr. TRAEGER (Cook). A man that paid an income tax would be a tax payer.

Mr. SUTHERLAND (Cook). Oh, absolutely.

Mr. TRAEGER (Cook). Do you believe that it is wise for us to discriminate against a man because he happens to not be a tax payer? Don't you think that we are stirring up something that will create a great deal of trouble for us?

Mr. SUTHERLAND (Cook). Mr. Chairman, let me reply by asking another question. Who should have the better right to vote on extending the credit of his city for which his property or improvements is to be taxed than the tax payer?

Mr. TRAEGER (Cook). That is true, but a citizen of the United States is a legal voter, and we are now going to attempt to disfranchise him because of the fact that he has no property. I for one do not believe that is the right thing to do, and I will surely vote against the amendment.

Mr. HULL (Cook). Mr. Chairman, may I ask the gentleman a question? You are against this section 17 anyway, aren't you?

Mr. SUTHERLAND (Cook). No, no. It must be properly safeguarded. I have misgivings about it.

Mr. TRAEGER (Cook). Will the gentleman yield to another question? Supposing Mrs. Traeger owned the property and paid the taxes in her name, I would be disfranchised, would I, or Mrs. Sutherland paid the taxes, you would be disfranchised?

Mr. SUTHERLAND (Cook). I presume those questions could be taken care of by the General Assembly so that no injustice could be done while the substantial right to vote existed.

Mr. TRAEGER (Cook). Possibly they might, but that would work this way: If they were paid in your name or mine, it would disfranchise the wives.

Mr. SUTHERLAND (Cook). Mr. Chairman, the states that have these provisions seem to have no difficulties in carrying them out.

Mr. LINDLY (Bond). I would suggest an amendment that perhaps would help that out, that where the head of the family pays the taxes, the whole family could vote.

CHAIRMAN WILSON. The question is upon the amendment of Mr. Sutherland.

(Amendment lost.)

CHAIRMAN WILSON. The question now is upon section 17 as amended.

Mr. DUPUY (Cook). Mr. Chairman, I don't need to discuss this section. It has been discussed at great length. I think this section embraces a dangerous proposition. I hope it will be voted down.

(Section 17 adopted as amended.)

(Section 4 read.)

Mr. HULL (Cook). I offer this amendment, Mr. Chairman. Amend section 4 of article 1 of the report of the Chicago and Cook county committee by inserting after the words "to sell" in line 2, the words "the same or."

The discussion on that article grew out of the suggestion that the sale of the property is not prohibited, and that perhaps as a result the power of the legislature to prevent a sale was not prohibited, and that perhaps out of the exercise of that power there might arise a situation where the city had to make a long time lease, and that that would open up a long avenue of scandal, and so forth. Now, for the purpose of meeting that criticism, I offer this amendment. And I was expecting to follow it by another amendment to follow line 3, by striking out the period and saying, "but may be reasonably regulated by general law."

Mr. MILLER (Cook). Mr. Chairman, one of the delegates here the other day, delegate Taff, made some suggestions regarding that section which seemed to me to be rather conclusive against it. The benefit of that section was a little hard to see. At the present time the right to do these things

is not denied by law. It is not likely to be denied by law, unless there is some very great change in public opinion which perhaps would be justified, and it might conflict with the revenue article; that is to say, those sections in the revenue article referring to the ownership of public utilities and the issuing of bonds for the purchasing of them might be construed in connection with this to the effect that those provisions were a practical denial, so far as Chicago is concerned, of the right to acquire public utilities, because in the revenue article those provisions are general, whereas this applies specifically to Chicago. It seems to me that those objections have weight, and that there is not enough benefit to be gained by this section to warrant adopting it and taking those risks.

Mr. HULL (Cook). I remember the objection that was raised by Mr. Taff, and at the moment it had some weight with me, but on reflection it seems to me perfectly clear that all that is meant by section 4 here that we are now considering is that there shall be no denial of the corporate power of the City of Chicago, by any affirmative act of the legislature, to do any of these things. The failure of the legislature to make provision under sections 9, 10, 11 and 12 would not amount to a denial by law of the corporate power to do these things. I do not believe there is any real inconsistency. I felt the force of the argument made here the other day, but on reflection I do not believe there is any real inconsistency between the two.

Mr. MILLER (Cook). Do you think there is any real particular necessity for this?

Mr. HULL (Cook). I said to some of the members of the Committee of the Whole then, and I repeat it now, that this has largely a political value, that it would be misunderstood if stricken out, I fear. Whether it has any absolute value in the protection of the city against the denial of that power by affirmative act of the legislature, I am not sure. I think it might have some value, but it might not be of any practical importance, and yet no one can say it might not, and I think as an assurance to the public it is of value.

Mr. MAYER (Cook). Mr. Chairman, I am opposed to this section. I would like to know what is meant by giving the city the power to sell the public utility, to sell the water works or the traction company?

Mr. HULL (Cook). Shall not be denied the power to sell, is what it says.

Mr. MAYER (Cook). That is not the question that I am asking. I want to know whether the City of Chicago, under the proposition which so far has been adopted, over my protest, can sell the waterworks or the traction company, the elevated or surface, or which one, which by and by we shall be asked to vote a couple of hundred million dollars for? I would like to know what control the people of Chicago have or will have over their two hundred million dollar investment if in four years or eight years it turns out to be unreasonably operated or carried on at a loss? Can the city council sell it? If so, at what price?

Now, does this section bear on that question, and if it does not, is there anything in these constitutional proposals that does? We have been trying to hem in the power of the city to increase its indebtedness even to the extent of limiting for two years from the submission of the original proposition—and by the way, I submit to the author of that amendment, what does it mean? Supposing the original amendment is rejected, then it is offered again in two years and is rejected, why can't it be offered thirty days after? That would be two years and thirty days from the time the original was submitted. I speak of this as indicative of the scattering and sputtering way in which these fundamental changes in our Constitution are being discussed, and adopted. But I want to know, before I vote on section 4, whether the power of the city to own, acquire, construct, operate and let or lease for operation public utilities, or to sell the same, as is now proposed, or the product or service thereof, cannot be denied by law?

Suppose the city council passes by a two-thirds vote an ordinance to sell to the great grandchild of Charles T. Yerkes, or to the ghost of Charles T. Yerkes, the traction property of Chicago? What have we got before us

that prevents the council from doing it? I ask the chairman of the Committee on Chicago and Cook County whether there is any provision in the Constitution with reference to that?

Mr. HULL (Cook). Mr. Chairman, there is no grant of corporate power that hasn't its hazards. There is no assurance that corporate power exercised by any public body will not be abused. I cannot give the gentleman assurance that the City of Chicago, as represented by its councils, may not do wrong. I am presuming the natural presumption which arises in all representative government, that that will follow reasonably from this. Now, I know that there have been scandals in the past, I am not denying that at all, and there may be scandals in the future, but we cannot hedge about every action of our corporate authorities and of our corporate officials by this limitation or that limitation, because this man or that may may be a crook. I suggest that we have got to have confidence in somebody, and personally, in spite of the abuses of power that have been shown us in the past, I am a believer in popular government in the City of Chicago and elsewhere.

Mr. MAYER (Cook). Mr. Chairman, that is a very interesting speech, but it does not answer my question.

Mr. HULL (Cook). I assured the gentleman that I could give him no assurance as to the future. That is an answer to your question.

Mr. MAYER (Cook). Why shouldn't there be some limitation? You limit the power to increase the bonded indebtedness to an act of the legislature and three-fifths of the popular vote and two-thirds of the council. Why should the city council of Chicago have the power without restriction to sell this public utility without a vote of the people?

Mr. HULL (Cook). Mr. Mayer, if I may be permitted to answer your question, my amendment already covered that, "but may be reasonably regulated by general law."

Mr. MAYER (Cook). Wouldn't it be better to say "reasonably regulated and controlled?" Would that cover it?

Mr. HULL (Cook). I think it would.

Mr. MAYER (Cook). I mean to say this: This suppositious case is not impossible, and I don't think the chairman should grow over-zealous and over-eloquent about it. I am simply saying you create or hedge in the power to increase bonded indebtedness by all the restrictions that have occurred to the facile and able mind of Mr. Sutherland and your committee, and I am asking have you created any restrictions to prevent the sacrifice and sale of these properties?

Mr. HULL (Cook). I don't think you can anticipate all the restrictions that ought to be put in, and I don't think you would want to extend your constitutional provisions to cover all those restrictions; but if you provide here that such restrictions could be put in by reasonable regulation provided by general law, it seems to me you have covered the case as you stated.

Mr. MAYER (Cook). Wouldn't you improve your amendment if instead of saying "reasonably regulated by law" you had it, "but none of such powers shall be exercised except as may be provided by law," leaving it to the legislature the right to sell or lease?

Mr. HULL (Cook). No, this does not go into the right to lease or sell. This goes into a denial of the right to lease or sell.

Mr. MAYER (Cook). Haven't you by your amendment suggested, "or to sell the same?" Doesn't the "same" refer to public utilities?

Mr. HULL (Cook). Yes.

Mr. MAYER (Cook). Now, hadn't you better restrict the right to sell public utilities or to lease them, except in the manner to be prescribed by law?

Mr. HULL (Cook). I think I did. I think what I have said covers that, Mr. Mayer, "but may be reasonably regulated;" "shall not be denied, but may be reasonably regulated by general law."

Mr. MAYER (Cook). I don't think it covers it.

Mr. JARMAN (Schuyler). Do you understand by that that they could regulate the lease by general law?

Mr. HULL (Cook). The power to lease may be regulated; I suppose that would be true.

Mr. JARMAN (Schuyler). You mean by general law to prescribe the kind of lease they can make?

Mr. HULL (Cook). The length of time; reasonably regulate it.

Mr. JARMAN (Schuyler). Reasonably, of course, does not add anything to it; but that they can fix the time by general law?

Mr. HULL (Cook). I think "reasonably" adds to it. I don't think you could make a regulation which amounted to a denial.

Mr. JARMAN (Schuyler). You couldn't do that anyway, whether you said reasonably or not, but do you think that that would give the legislature the power, and is it your intention to fix by general law the terms, period, character, and so forth, of a lease which the city council might make?

Mr. HULL (Cook). That would lay the conditions of the lease the city council might make.

CHAIRMAN WILSON. The question is upon the amendment to section 4. (Amendment adopted.)

CHAIRMAN WILSON. The question now is upon the adoption of section 4 as amended.

(Section adopted.)

(Section 5 read.)

Mr. HULL (Cook). Criticism was made of that section the other day that it gave the city power to join with other municipalities, but there was a lack of corporate power to other municipalities to join with the city. I think that is a fair criticism of it, and the explanation is that that section was in the article for all the cities in the State when we brought it in here last June. That point had not occurred in adopting it in this proposal and had not properly come to our minds. There was a reason for putting it in, however. That grows out of the limited use of the words "local improvements" under our present Constitution. It has occurred to me that it might be adopted and put perhaps into the revenue article or some other article and not put in this Chicago article. I am loath to make any motion upon it myself. I don't care whether it goes into the Chicago article, unless it goes into a general article which permits the city to join with the other cities, and gives the other cities the particular power, too.

Mr. HAMILL (Cook). Mr. Chairman, I move to amend section 5 as follows, by striking out in line 2 the word "acquisition," in line 3, "ownership, leasing, maintenance and operation of public or," and all of line 4. Insert in line 3 before the word "local" the word "of."

CHAIRMAN WILSON. The question is upon the amendment offered by Mr. Hamill.

(Amendment adopted.)

CHAIRMAN WILSON. The question is on the adoption of section 5 as amended.

(Section 5 adopted.)

Mr. JARMAN (Schuyler). Mr. Chairman, I want to ask a question of the chairman of the committee, if he does not think since section 5 has been amended, that that should go in some article of the Constitution, and not only apply to the City of Chicago?

Mr. HULL (Cook). I think it might properly be put into some other article, and it may cover not only the power given to the City of Chicago, but all municipalities who join in the matter of local improvements.

Mr. LINDLY (Bond). The committee on phraseology and style can do that.

CHAIRMAN WILSON. The question now is upon the adoption of proposal 385 as a whole.

Mr. SUTHERLAND (Cook). Mr. Chairman, I should like to move to reconsider the vote by which section 3 was adopted, for the purpose of opening the discussion to some question. As I recall it, that section was passed rather hastily and without much discussion, and there are some questions I would like to raise in connection with that section.

CHAIRMAN WILSON. The question is upon the motion of Mr. Sutherland to reconsider the vote in adopting section 3.

Mr. HULL (Cook). I hope that motion won't prevail. That opens up a long discussion again on a proposition that was pretty well considered, Mr. Sutherland, unless you can state some reason for it.

Mr. SUTHERLAND (Cook). Mr. Chairman, there does not seem to me any reason why it is put in here. As far as I know, the City of Chicago and most cities in the State have been granted the power to acquire private property for public use, and I would think that includes the right to condemn some public utility properties. I don't know, but I should like to be definitely advised on that, and for that reason I wanted to have the question re-opened. I don't think it would be desirable to put into this article legislative matter which is now providing for by law.

Mr. RINAKER (Macoupin). Mr. Chairman, I join with the gentleman in urging that that section be reconsidered. If it is to go in in the language in which it is, it seems to me that it is open to a broader construction than the section in the Bill of Rights. The section in the Bill of Rights was narrowed purposely in one particular that I remember now, to prevent the idea of the condemnation of property for large public improvements where more property should be taken than was necessary for the improvement, but as a real estate speculation might be gone into.

Mr. HULL (Cook). Mr. Chairman, the city is simply given the corporate power to condemn private property for public use. Now, no condemnation can be had for other than public use, and there is nothing in this section which goes beyond the previous provisions, if I remember them, of the Bill of Rights with reference to what the power of condemnation can be used for. Public use has been held to be a restriction upon the power to condemn private property, and it has been held to prevent excess condemnation, has it not?

Mr. RINAKER (Macoupin). Well, yes, I think it has.

Mr. HULL (Cook). So that this is a more limited direct grant of the power to condemn than the power that is referred to in the Constitution, is it not?

Mr. RINAKER (Macoupin). Well, then, why not just provide in line 2 here that this right to condemn shall be within any restrictions of section 13 of the Bill of Rights?

Mr. HULL (Cook). I think it would be anyhow, Mr. Rinaker. This is simply the grant of the corporate power to condemn, and I think that corporate power to be used must be in accordance with law, and that provision in accordance with law, would include the provisions of the Bill of Rights.

Mr. RINAKER (Macoupin). I doubt it.

Mr. HULL (Cook). I feel reasonably clear about that.

Mr. RINAKER (Macoupin). Well, you have in this same provision the distinction between law, special law and general law. You have got all three expressions used in this same section.

Mr. HULL (Cook). Not in that section, no.

Mr. RINAKER (Macoupin). In that article, I should say.

Mr. MILLER (Cook). I move that we rise and report progress and ask leave to sit again.

Mr. SUTHERLAND (Cook). Mr. Chairman, I think that the motion to reconsider should prevail, because my questions have not been answered yet as to what is lacking now in the hands of the General Assembly to do what we now consider they have the power to do.

Mr. HULL (Cook). That is a direct grant of the power to condemn, Mr. Sutherland, as far as it covers property within the city, in accordance with the restrictions of law.

Mr. SUTHERLAND (Cook). Is there any limitation on the power of the General Assembly to deal with that subject now?

Mr. HULL (Cook). I don't know as I get your question.

Mr. SUTHERLAND (Cook). Is there any limitation now against the power of the General Assembly to provide for the very things that are here provided for?

Mr. HAMILL (Cook). Mr. Chairman, point of order. There is a motion before the house to rise.

CHAIRMAN WILSON. The point of order is well taken. The motion is that the committee rise and report progress.

(Motion lost.)

CHAIRMAN WILSON. The question is upon the motion to reconsider. (Motion lost.)

Mr. HULL (Cook). I move that the Committee of the Whole recommend the adoption of the report of the Committee on Chicago and Cook County as amended in Committee of the Whole.

Mr. HAMILL (Cook). Mr. Chairman, I desire to ask the chairman of the Committee on Chicago and Cook County a question of construction before that motion is put. My attention has been called to the provision of section 2, in lines 14, 15 and 16 on page 2, to the distribution of powers among official agencies, or to the tenure and compensation of its officials. The pensions paid to city employees are sometimes considered in the nature of compensation. Is it your intention by this section to vest in the city complete control over the pensions paid to city employees, and if so, does it not conflict with the policy heretofore adopted by this Convention?

Mr. HULL (Cook). I don't think that the pension proposition came specifically before this committee, and whether it would affect the pension proposals I am not positive, but I am under the impression that the courts have construed the power of the legislature to be broad, and to permit them to impose a tax upon the city for the purpose of the maintenance of pensions, and I presume that the gentleman who is responsible for this question has in mind the question as to whether or not this would amount to a limitation upon the power of the State to provide for pensions and call for a tax levy for that purpose. I presume that is what he had in mind.

Mr. HAMILL (Cook). Yes, sir.

Mr. HULL (Cook). I doubt whether it affected that power at all.

Mr. HAMILL (Cook). Would it be suitable to the committee and to the Committee of the Whole if when this comes before the Committee on Phraseology and Style an effort should be made so to phrase it that there would be no question about the reservation of the power of the State over these pensions?

Mr. HULL (Cook). Now, I want to ask one question of the chairman of the Committee on Phraseology and Style. Did not the Committee of the Whole in supporting the legislative article, approve the proposal in that article on the subject of pensions?

Mr. HAMILL (Cook). Yes, sir, it did. It approved an article that provided the General Assembly might give a vested interest to employees in their pension funds.

Mr. HULL (Cook). I don't remember the exact form in which it was approved, but I remember that it was before the Committee of the Whole in connection with the legislative article.

Mr. HAMILL (Cook). I am seeking information as to how I am to phrase this when it comes before the committee.

Mr. HULL (Cook). I am asking this question because I am under the impression that that action of the Committee of the Whole with reference to that legislative article will be a guide to his conclusions.

Mr. HAMILL (Cook). I think so, too, unless it is the intention of this body in adopting this section to vest that power over the pensions in the city government. In that case I think there is a conflict, and I will not know how to phrase it.

Mr. MILLER (Cook). Mr. Chairman, may I say this, and Mr. Hull? Isn't this an accurate statement, and doesn't this answer Mr. Hamill's question? That there was no discussion in our committee as to any limitation of the power of the General Assembly over pensions as set forth in the previous section of the legislative article?

Mr. HULL (Cook). There was no discussion whatsoever; that did not come before the committee.

Mr. MILLER (Cook). I will say that so far as I know there was no intention to reserve to the City of Chicago the exclusive right over pensions.

Mr. GREEN (Champaign). Mr. Chairman, are you voting on the recommendation of this article as a whole?

CHAIRMAN WILSON. Yes, sir.

Mr. GREEN (Champaign). Well, I want to take just a moment to explain my vote on this question. I suppose each delegate in this convention is responsible for his own vote on these matters, whether they reflect anybody else's judgment or not.

I have not participated in the debate because I felt that this was a matter about which the delegates from Cook county had more knowledge than any of us had outside, and I confess unqualifiedly that they have abundantly more knowledge than I might have about it, but there isn't any doubt in my mind, and I don't believe there is any doubt in the minds of any of us, that there has been more of an attitude of political expediency than sincere conviction of the security on this question, of the action by this Convention in adopting this article. Reference has been made from time to time to the necessity of satisfying—perhaps not spoken in this frank way, but meaning nothing else—some popular clamor supposed to exist somewhere for definite affirmative action by this Constitutional Convention for home rule for Chicago.

There is no delegate in this Convention that has more or greater desire than I have to give to the City of Chicago as much home rule as can possibly be granted without jeopard to the State. Indeed, to give it that complete control over its own municipal affairs which do not concern the affairs of the State, as it wants. There has been in the Constitution of this State authority of the City of Chicago to adopt a charter for a long time. An effort was made to act under that authority, and it was rejected by the voters. It seems to me that action of this kind by this Convention is an assumption of authority by the delegates assembled here to speak for Chicago upon matters which the City of Chicago itself has not expressed itself on, and in my judgment, upon which this Convention cannot attempt to reflect the real judgment of the citizens of Chicago.

There is no question but that the framing of a charter by a great city like that is a job big enough to enlist the best brains in the city, untrammelled by any influence or opinions by those living outside of the city as to what would be best for it, and would require much more time and effort than has been devoted to this article, and if it was impossible to have accepted by the citizens of Chicago the proposed charter that was framed under the authority already existing, in all seriousness does anybody ever believe that the City of Chicago would ever accept this patchwork of supposed usurped and assumed authority to speak on these great matters, limiting and defining and controlling and directing absolutely the course they should take for the next fifty years on all these matters? It is not because I would deny that limit of authority for the City of Chicago that they want, but because I do not believe that the citizens of Chicago and the people would believe that represented the real spirit of the city were this Convention to attempt to prescribe constitutional home rule of this character, that I am compelled in justice to myself to refrain from voting in the affirmative to tie their hands for fifty years with constitutional home rule in this way.

This is said without any reflection to the great effort that has been put forth to build a document which would be good for the City of Chicago, and the tireless efforts of the chairman of this committee to do the thing which he thought was best, and the fight that has been made on this floor to have this adopted; but doesn't it spell, as we look at it, an absolute rejection by the voters of the city if indeed the element of political expediency is to be considered? Aren't we doing the worst thing we can do to expect support to this Constitution from the voters of Chicago if we assume this high prerogative of authority? On the other hand, unlimited authority to the General Assembly in harmony with the Constitution and laws of the State to prescribe a method of home rule by what might be termed legislative home rule certainly would answer all that is expected of us.

CHAIRMAN WILSON. Gentlemen, the delegate from Champaign has, in my judgment, issued a very timely warning to the delegates of the Constitutional Convention. I am very glad to hear what he had to say. I must say that I agree with him.

Mr. HULL (Cook). Mr. Chairman, I don't want to interrupt your speech. The gentleman from Champaign has suggested that considerations of expediency have governed the conclusions of this committee. I will not deny that considerations of expediency have had their place in the conclusions of this committee, but if by that suggestion it is intended to impugn the sincere convictions of the members of this committee in the worth-whileness of this document, I will accept the challenge. I say that the committee sincerely believe that it is a reasonable proposal, and that it ought to prevail, and I hope it will prevail. The committee does not usurp to itself omniscience. It may have made mistakes, but it believes that it has done a fairly good job under the circumstances of the case, and I hope that the proposal will be approved as recommended to the Convention.

(Proposal adopted.)

Mr. MILLER (Cook). Mr. Chairman, I move that we now rise and report.
(Motion carried.)

Mr. WILSON (Cook). Mr. President, your committee begs leave to rise and report.

THE PRESIDENT. The chairman of the Committee of the Whole reports that the committee has had under consideration the article reported by the Committee on Chicago and Cook County reporting the proposal adopted as amended by the committee, and the question is upon the adoption of the report of the Committee of the Whole. Are there any remarks?

Mr. MAYER (Cook). I desire, Mr. President, to ask as to the procedure on votes. This vote I desire to be recorded. I want a roll-call.

(Roll call requested by five delegates.)

(Roll called.)

PRESIDENT WOODWARD. The ayes are 37 and the nays are 4. Accordingly the report of the committee is adopted.

(The Convention thereupon, at 11:25 p. m. adjourned until 9:00 o'clock a. m., Tuesday, November 30, 1920.)

TUESDAY, NOVEMBER 30, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The journal of Wednesday, November 24, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction.

Mr. HAMILL (Cook). Mr. President, there is one correction to be made in that. On page 2 in line 3 of the right hand column the last word "grains" should be "grain." The final "s" should be eliminated.

THE PRESIDENT. The Secretary will make the correction accordingly. Any further corrections of the journal of last Wednesday? If not, the journal of Wednesday, November 24th, will stand approved as corrected, and it is so ordered. Report of standing committees; introduction first and second readings of proposals; motions and resolutions; unfinished business; general orders of the day. Under general orders of the day the Convention will resolve itself into the Committee of the Whole for the purpose of further considering the report of the committee on judicial department. The chair designates Delegate DeYoung to act as chairman of the Committee of the Whole.

(Thereupon the Convention resolved itself into a Committee of the Whole with Delegate DeYoung in the chair.)

CHAIRMAN DEYOUNG. Gentlemen of the committee, the first order of business will be the consideration of sections 5, 6 and 7 of report number 383, and the clerk will please read those sections.

(Sections 5, 6 and 7 read.)

Mr. CUTTING (Cook). I move the adoption of the sections, Mr. Chairman.

CHAIRMAN DEYOUNG. The gentleman from Cook, Mr. Cutting, moves the adoption of proposed sections 5, 6 and 7 of proposal 383.

Mr. GREEN (Champaign). Mr. Chairman, I move to substitute for section 5 of proposal number 383 section 5 of proposal number 384 as reported by the five members of the committee who signed that proposal.

(Section 5 of proposal 384 read.)

Mr. TODD (Peoria). Mr. Chairman, I want to say to the Convention that at the time the report of the judicial committee was signed and turned in I was unavoidably absent from the Convention. If I had been here, I would have joined with the five gentlemen who signed the minority report with reference to sections 5, 6 and 7, and I would like, if there is no objection, to have the record show that I am wholly in favor of it, and that my name is signed thereto.

CHAIRMAN DEYOUNG. Is there any objection? If not, the gentleman from Peoria will have his signature added to minority report number 384. The gentleman from Cook moved the adoption of section 5 of the majority report proposal 383. The gentleman from Champaign moved the substitution of section 5 of proposal number 384. The question is open for discussion.

Mr. GREEN (Champaign). Mr. Chairman and gentlemen of the committee: Your committee on judicial department were in an entire accord throughout in the presentation of the article on judicial department with one exception, and that one exception arises on these two reports, the difference being shown in the minority report which is numbered as proposal number 384. Six members of the committee, which consisted of fifteen mem-

bers, have signed their names to proposal number 384, and I say that to my knowledge one other member of the committee who was unavoidably absent at the time the report was turned in, approves it and expected to be present and participate in the debate, so that in so far as it being a majority or a minority report is concerned, it is in fact a report of a majority of the committee that was active or did act in the framing of the article on judicial department, as there were members of the committee who were unable to attend any of its sessions.

However, regardless of the numbers on the committee either way, the issue presented by these two reports is clear and clean cut, and is presented to this Committee of the Whole, and in substance is whether we shall retain a Supreme Court of seven members, or shall have a Supreme Court of nine members, with an arbitrary fixed rule that three of the nine shall be elected from Cook county. May I read again sections 5 and 6 of the report of the Committee as a Whole, which is termed the majority report number 383, because these two sections must be read together to get the matter squarely before us, and then read the sections as submitted by the minority report, and I say that section 7 as submitted by the six members of the committee in proposal number 384 was drawn before recess, so that in any event if sections 5 and 5 of 384 were substitutes, it would be necessary to make some changes in section 7 as it is presented, in order to conform to the expiration of terms, and the chairman of the committee and the minority well understand that in that event the majority report is correct, providing for the termination of terms.

Now, section 5 as reported by the committee in 383 is as follows:

(Section 5 read.)

And we must read section 6 in connection with it.

(Section 6 read.)

So that the provisions of this report are for the election of one justice from each of the six districts outside of Cook county, elected by districts, one justice from each district, then three justices elected at large by the voters or electors of Cook county from the county at large, that being a separate district.

Mr. CUTTING (Cook). By Cook county, it says.

Mr. GREEN (Champaign). Well, the district of which Cook county is a part, which now includes two or three other counties, to be elected by that as a district at large, three justices, so that in effect it provides permanently for the election of three justices of the Supreme Court by the City of Chicago, because of its great domination in point of numbers in that territory.

Now, the minority report, section 5, is just like proposal 383, except the word "seven" instead of "nine" is used, four for a quorum; and then section 6, the State shall be divided into seven districts for the election of justices, and until otherwise provided by law they shall remain as now constituted, one justice shall be elected from each district, so that under proposal number 384 it is entirely possible that in a redistricting of the State, the territory which now comprises the district of which Cook county is a part might be created into more than one district, or re-divided in any way that the General Assembly might see fit, but would preserve the rule that there could be but one justice from a district. So that even if Cook county were redistricted by the General Assembly into two districts by itself, and the rest of the State into five districts, it would be possible to do it under this proposal by the General Assembly without any constitutional amendment. In other words, the power of the General Assembly, if they ever saw fit to modify or change the present division of the State into supreme judicial districts, would remain, and the only argument among the members of the committee against the wisdom of that condition is that it is not probable that they would ever do it, and upon that, of course, minds might or might not agree; but, at any rate, the theory of proposal 384 which has been presented by those whose names are signed to it, is to preserve the present system and the present method of compelling the electors of the State to select the justices of the Supreme Court by districts, with one judge from a district, and not over seven districts in the State, without any strings on the

General Assembly as to how they might divide or district the State, while the report of the committee provides specifically for the selection and continual selection from the district of which Cook county is a part, of three justices of the Supreme Court.

Now, those of us who present this proposal 384 are moved by two controlling ideas: First, that we should not increase the size of the Supreme Court; that seven justices of the Supreme Court is better than more than seven. The other is that the wisdom of selecting judges to preside upon the supreme bench should be left as it is, so that no more than one judge could be selected from one particular locality or population or influence or district in the State. There was, it is true, some discussion among the committee as to the wisdom of allowing not more than two out of the seven to be selected from one district, and with the proposal which we submit, that possibility remains with the General Assembly, or they might even go farther than that; but to select three judges from any one element of the population in the State we feel would be of serious consequence in the preservation of that independent and valued character of the Supreme Court of Illinois.

Now, of course, the argument on the other side, and, indeed, I believe the only argument is, that there are so many more people in the district of which Cook county is a part that that should be entitled to more representatives on the Supreme Court bench than a district with a small population. Our position is that it should never be the law that judges represent population; that the judiciary should never be dependent upon the population behind the selection of the incumbent, but that the judiciary, representing all the people and representing all interests, and yet representing none, should be selected in the manner that has no dependence upon the size of the district it serves, or the comparative numbers of the district it serves, and that it should be absolutely independent of the element of population, and the only reason for having the State divided into districts and having one judge selected from each district is that the judges must of necessity come from different portions of the State to avoid the possibility of more than one judge coming from any particular locality where there might be any particular influence that might affect decisions. In other words, we believe that decisions should in no sense be controlled, and everybody will agree with this, by the will of the population from which the judiciary is selected, but that judicial decisions upon the Supreme bench, being the last word in the law of the State, not being subject to any appeal so far as the State is concerned, should be selected independent of the opportunity for any influence which might be wielded by any particular population, and the very fact that there is a great population in one district should never be allowed to influence the character or the nature or the form of any decision which is rendered by the Supreme Court of the State, but that it should be a court announcing principles of law, not deciding cases upon conditions, not deciding cases in obedience to any popular clamor or request from any element of the population in the State, but preserving its absolute independence of popular appeal or of conditions or any of these things that might influence the legislative branch of the State government or the executive branch of the State government. In other words, that the judiciary, one of the necessary elements to its independence, should be that when we have the composite opinion of the Supreme Court upon a case arising in any corner of the State, that it should be independent of any desire of the population in that part of the State because at least six-sevenths of the court is removed from any of the influence which may have moved the decision of the judge coming from that territory, or which might possibly move him.

Of course, I assume that the opportunity to make more important jobs in any particular territory, or for any population, will have no important influence in determining the judgment of any of us, but it is simply a question of the rights and the interests of the people of the whole State in devising a scheme for the construction of a Supreme Court which will preserve its independence of popular clamor, and which will insure to the litigant a hearing in a forum where judges are not influenced by conditions, but wherein their best judgment of correct legal principles will be announced

because they will not represent and be expected to respond to any marked degree to any particular population from which they come.

Now, it has been argued that when the present Constitution was adopted the State was districted with reference to population. I had the figures last night, and they are now being corrected, but from memory I think I can quote them. That was not true. The size of the districts by population ranged from about 275,000 in one district, which was the smallest, I believe it was the fourth, to over 350,000 in the district which was the largest; indeed, in one of the districts there were approximately 400,000 in 1870, and I think it was the southern district that was the largest in population. There was at least 75 per cent more population in one district than another, but the State was divided in the Constitution, with the power in the General Assembly to change it, and in 1884, I believe, there was a change made in one of the districts. Rock Island and some other counties were added to the district of which they are now a part, which I believe is the fourth; Pike county was taken out and put in another district.

There is not a whole lot of value, of course, in precedent, and yet the way it has worked, the way particular principles have operated in other commonwealths, are of importance in determining whether or not the court has been affected, and I have had collected by the Legislative Reference Bureau information as to the size of the Supreme Court in the various states of the union. Illinois is asked by this proposal to increase her Supreme Court to nine members and, when we do that it is interesting to see the company we get in. The only states in the union in which the Supreme Court consists of nine members with general appellate jurisdiction—you notice I say general appellate jurisdiction; I distinguish it from the New Jersey situation, where the court is more or less divided into branches and the work divided—are two, namely, the State of Oklahoma, with nine members, and the State of Washington with nine members. There is one other state, Maine, with eight members, in which state the justices are appointed by the governor with the consent of the council. The State of Michigan has eight members elected at large.

Those are the only states in the union, except New Jersey, with more than seven judges on the supreme bench. The State of New Jersey has 16 members which really makes one Supreme Court doing the work of Supreme Court and Appellate Court in this State, appointed for six and seven years by the governor with the consent of the Senate, different branches being appointed for six years or seven years. The equity branch, if I remember right, in New Jersey has had five judges dealing with that branch of appellate jurisdiction. I am not sure what the number is now.

Now, before looking at these other states, here is a factor in here in the way this judicial article is framed of which this committee is, I believe, justly proud. Every member of this committee feels that this judiciary article is going to make friends of every lawyer in the State who is interested in the matter of the judiciary. We make the Supreme Court elected, and we take away the present character of the Appellate Court, we destroy this present system of a court of intermediate conjecture, which Dean Harker of the University of Illinois law school so often designated it. It makes the Appellate Court really an adjunct or an assistant or a part of the Supreme Court of the State; the Supreme Court judges appoint the appellate judges, defining their appellate jurisdiction with certain limitations which the Constitution imposes on cases that shall go directly to the Supreme Court, with power to make the rules concerning the operation of the court, fixing the place, terms, and all that kind of thing, and determining the final appellate jurisdiction of the Appellate Court, so that the Supreme Court can rid itself of a lot of rubbish that now goes directly to the Supreme Court, and must of necessity go there, and place the final appellate jurisdiction in the Appellate Court, and thus leave the Supreme Court free to divest itself of a great amount of work which is now piled upon it unnecessarily and improperly, so that it can, in effect, define its own sphere of operations and its own jurisdiction with, of course, the limitations that the constitution imposes that in certain cases they must take appellate jurisdiction, but in

cases like Workmen's Compensation cases, these cases where the Supreme Court in the first instance makes the law, announces the rules, and then puts in the Appellate Court final appellate jurisdiction, and it makes of the Appellate Court a real aid and an assistance to the Supreme Court; and that was the only reason that the committee determined that the appellate judges might be appointed, and should be appointed by the Supreme Court, the Supreme Court being responsible for the personnel of the court, for its work, and with the right to review, so far as it saw it, its decisions. It became a creature of the Supreme Court, and therefore the burdens of the Supreme Court were practically within its own hands, and your committee all agreed that there was no danger in giving to the Supreme Court that prerogative because it has the best reputation now that it has had for a long time in the State, and with this opportunity to control the volume of its business, there is no reason why it should not stand at the head of the states of the union in keeping up with its work, and the promptness with which it decides its cases; and with all this deluge of litigation that has gone to the Supreme Court of Illinois, a greater value by far than the average of the Supreme Courts in the different states of the union, and many, many times as much as many of the states—with seven judges on the bench—this court has kept up with its docket like no other court with which I am acquainted, and it is often said better than any other state in the union; the cases presented at one term, and except there is a division in the court, almost universally a decision at the succeeding term.

Now, the states with seven judges on the Supreme bench in the manner of their selection, seven or less, are the following, starting alphabetically:

Alabama with 7, terms of 6 years, elected at large; Arizona with 3, elected 6 years, at large; Arkansas with 5, 8 year terms, elected at large; California 7, elected at large for 12 year terms; Colorado with 7 elected at large for 10 year terms. Connecticut with 5, 8 year terms, appointed by the legislature on nomination by the governor; Delaware with 6, 12 year terms, appointed by the governor with consent of the Senate, with a provision that at least one judge should come from each county—that is, not more than one judge from a county.

Mr. HAMILL (Cook). That is county representation, isn't it?

Mr. GREEN (Champaign). That is county representation, but half the population of Delaware is in one city, in two cities more than half the population, and yet they have the provision that not more than one judge should come from any one locality.

Georgia, 6 judges elected at large, 6 year terms; Idaho with 3. Illinois 7, elected for 9 year terms by districts; Indiana with 5 elected for 6 year terms, one from each district by the voters of the state at large.

A good deal of discussion in the committee was had about the wisdom of electing them at large, but from districts; that is the rule in Indiana, with 5 judges constituting the Supreme Court.

Iowa, with 7, 6 year terms, elected at large; Kansas 7, the same; Kentucky 7, elected by districts for 8 year terms; Louisiana 5, 12 year terms, elected by districts; Maryland 8, 15 year terms, elected by judicial circuits. I think I omitted Maryland in enumerating those with more than 7. They are for 15 year terms, practically of life tenure, elected by judicial circuits.

Massachusetts with 7, appointed during good behaviour by the governor with the consent of the council, and, of course, I need not refer to the high standing of the Supreme Court of Massachusetts. Minnesota with 5, 6 year terms, elected at large; Mississippi 6, 8 year terms, elected by districts. Missouri 7, with 10 year terms, elected at large. Now, in Missouri there is a provision for the Supreme Court appointing commissioners. There are six commissioners appointed by the Supreme Court whose general duties are to assist the court. In Florida also the Supreme Court may call in circuit judges whose opinions may or may not be adopted in whole or in part by the Supreme Court. In Minnesota there are two commissioners appointed by the Supreme Court to aid the court in the performance of its duties, and that is effective until the number of the Supreme Court judges is increased to six, there now being five.

Montana 5 justices, 6 year terms, elected at large; Nebraska 7 justices, 6 year terms, elected at large, with a provision that the Supreme Court may call in district judges to aid them in disposing of congested dockets. Nevada 3 judges, 6 year terms, elected at large; New Hampshire 7 judges, appointed by the governor with the consent of the council during good behavior; New Mexico has 3 justices, 8 year terms, elected at large; New York 7 judges, 14 year terms, elected at large, with provision that when a majority of the Court of Appeals certifies to the governor that the court is unable, owing to accumulation of causes, to dispose of same with reasonable speed, the governor shall designate not more than four Supreme Court judges to act as temporary justices of the Court of Appeals. There are now three temporary justices in this court. We sought in framing this article to meet the very situation which these states have faced, where there is provision for the appointment of assistants, or the selection of assistants to the Supreme Court, by this provision for the method of creating, and the operation of our Appellate Courts, which fill all the requirements in all these states where it has been found necessary in any way to enable the Supreme Court to relieve itself of undue burdens. In this article the Supreme Court is given authority and power to make of the Appellate Court that very kind of tribunal and meet all these emergencies.

North Carolina, 5 judges elected at large for 8 year terms; North Dakota 5, with 6 year terms, elected at large; Ohio, 7 justices, 6 year terms, elected at large; Oklahoma, 9, as I said; Oregon 7 justices, 6 year terms, elected at large; Pennsylvania, 7 justices, terms of 21 years, elected at large, practically life tenure. Rhode Island 5 justices, and they are elected by the legislature and subject to removal by the legislature. Their terms are until removal; South Carolina 5 justices, 10 year terms, elected by the legislature; South Dakota 5 justices, 6 year terms, elected from districts by the voters of the state at large; Tennessee 5 justices, 8 year terms, elected at large, providing that not more than two shall reside in any one grand division. I take it probably Memphis had the same problem with reference to Tennessee that Chicago presents with reference to Illinois. Texas, 3 justices, 6 year terms, elected at large. There is a provision in Texas for a court styled the commission of appeals, which consists of six members appointed by the governor with the approval of the Senate, and their duties in general are to assist the Supreme Court. Utah, 5 justices, 10 year terms, elected at large; Vermont 5 justices, 2 year terms, elected by the legislature; Virginia 5 justices, 12 year terms, elected by the legislature, provision for temporary justices. That provision in Virginia is that the General Assembly may provide a special Court of Appeals to try cases on the Supreme Court docket which cannot be disposed of with convenient dispatch. And the State of Washington 9; West Virginia, 5 members, 12 year terms, elected at large; Wisconsin 7 justices, 10 year terms, elected at large, and Wyoming 3 justices.

It is apparent, therefore, that in point of precedent the only states with whom we join company are Oklahoma and Washington, and there is, as I see it, no argument and no facts can be presented from the story of experience why we should join that class. The delicacy of this subject of controlling the number of Supreme Court judges, of course, to the members of this Convention is emphasized by the controversy or considerations which this Convention has been giving to the subject of limitations of great cities, and it has been said to us by our friends from Chicago that this is another method of limitation, and that this now limits the City of Chicago on the Supreme bench. Now, I don't know what my colleagues think of the force of that argument, but with all due respects to these great agencies in the State that are so solicitous about the legislative branch of this government being limited in the personnel of its membership from Cook county, and Cook county being restricted from full representation, the study that I have given to this question leads me to believe and I am constrained to say this with all the emphasis at my command, that the danger from the absence of a limitation of Cook county in the General Assembly is inconsequential compared to the dangers which confront Illinois by ordaining in the basic law

of the State that one-third of the members of the Supreme Court should come from the City of Chicago.

Of course, it may be said that we are not compelling them to elect them from within the City of Chicago, and they may reside outside of the city, but none of us will close our eyes to the fact it really is immaterial where within the confines of Cook county a candidate for Supreme Court justice should reside; his business is in Chicago, and the electorate which will put him upon the bench is in Chicago. The controlling influence and the controlling numbers of the population which makes up the electorate is in Chicago, and if any danger exists from organized influences in one direction, it will always, of course, be organized influence within the City of Chicago.

Therefore, the down State members of your committee, those residing outside of Cook county, who were on the committee on judiciary, with the chairman of your committee whose residence is in Cook county and who, I think, as fairly represents both sides of the question as any man who could have been selected from this body of delegates, asked the Supreme Court for an audience to discuss the subject of the article on judiciary in all its phases. At that time we did not have in mind, and I think I speak for every member of the committee, simply the question of the size of the court, but we felt that as lawyers that the opinion of the members of the Supreme Court upon all the phases of the article on the judiciary would be of great value. They gladly granted our request, and set aside an evening for their conference, and invited us to attend in the conference room of the court, where they would discuss with us this article on the judiciary, and there some of us were surprised at the stress which was laid by at least five members of the court upon the fundamental importance of preventing any enlargement of the numbers on that bench, and really independent of other things, at least five members of the seven said to us that the great question for this Constitutional Convention with reference to the Supreme Court was to be sure that we did not increase the number upon that bench. They as lawyers and with refinement, delicacy, courtesy, discussed in a general way the danger of allowing the Supreme Court to ever become representative of numbers or of population.

We asked individually these justices in some way to give to this Convention their views. I think it should be said to the dignity of that bench they suggested that they preferred not to come into the Convention hall and orally discuss and argue upon the floor these matters with reference to the judiciary, but signified their willingness to reduce to writing their views upon the subject, and they have authorized us to present to you their written suggestions and appeal in that respect. One of the justices on the bench, and in my judgment, one without a peer, coming from Chicago, could not be expected in this instance to express with that same freedom his opinion upon this subject that the other members of the court would, and has discussed both sides of the question and has really said in his judgment it is immaterial; that is the justice from Cook county. One of the other justices from one of the other districts said that the whole matter turned upon the scheme which was laid out for the construction of the Supreme Court, and that if the work of the court was not lightened, that there should be some relief given by additional numbers so that there would be more men to write opinions, but that if the Supreme Court were enabled to lighten its labors and control the volume of its business, by no means should the number be increased, and agreed with the remaining members of the court that there was no question that seven was as large as could work satisfactorily in conference.

And so I want to read into the record and to the members of this committee what members of this court have to say upon this subject, and I start with the distinguished jurist from my own district, than whom there is no peer upon the bench, the Honorable Frank K. Dunn. Under date of July 6th, he says:

"I am opposed to increasing the number of judges on the Supreme Court. In my judgment it would be a great mistake. Such action would have a tendency to reduce the efficiency of the court, both because the greater

deliberative body would require more time in considration and discussion of cases and in arriving at conclusions and because the greater the number of judges, the less will be the sense of individual responsibility of each judge. The increase in the number of judges from Cook county will be the introduction of a wrong principle into the organization of the court. Judges do not represent any voting constituency, and the principle of representation of localities or interests should not be recognized. Judges should be elected from the different parts of the State for the reason that their experience and knowledge of the differing conditions in different sections is valuable in the consideration of causes, but in no sense can they be properly considered as representing the districts from which they are elected. For these reasons, briefly, I do not believe the organization of the court as provided in our present Constitution should be changed."

Next I read the comments of the youngest member of the court of different political faith from the justice whose letter I have just read, the Honorable Floyd K. Thompson from Rock Island. He says, under date of November 17, 1920, within a few days:

"Your letter requesting my views on the judicial section of the new Constitution at hand. You will pardon the delay in answering your letter. I have been swamped with work since the October term of our court, and if I were to express my honest convictions right now I might say we need a dozen or more judges on our court.

"I have not had time to give the matter much consideration and will not attempt to express my views in detail. My short experience on the court, however, convinces me that it is neither necessary nor advisable to increase the number of judges on the court. If the court were given power to regulate the practice and procedure by rules, much of the work would be eliminated. The most important question before the Constitutional Convention with respect to reform in the judicial department pertains to the Appellate Court. If this branch of the State judiciary is relieved of the work in the nisi prius courts, it will be in a position to relieve our court of much work and then the work can be easily handled by seven justices.

"When I went on the court there were 28 cases waiting for me that had been previously assigned to this district. During the first year I wrote all the cases regularly assigned to me and wrote twenty of these accumulated cases. I have had no difficulty doing my seventh part of the work of our court, and I do not believe any other member of the court has found the work too burdensome when his health permitted him to constantly apply himself."

I want to now read just a short brief note from Justice Stone. I thought I had another communication from him in which he went into the matter at greater length, but I do not find it convenient. However, he expresses his opinion in this terse language:

"You may say for me that I believe that from the standpoint of the best interests of the work in the court, that a court of seven men is better than nine, for the reasons that I have stated to you and the members of the committee at different times in Springfield."

We will all remember that Justice Stone, in this formal conference when we met with them, was outspoken in giving his reasons why there should not be a court representative of population or representation of interests, but that it should be divested of that.

Mr. HAMILL (Cook). Are you at liberty to tell us what he did say?

Mr. GREEN (Champaign). I just repeated that he said unqualifiedly that it was not to the best interests of the court that the court should ever represent population or interests, but that it should be so divided that there could be said to be no basic element of popular acclaim or suggestion coming from population which made up the personnel of the court to control its decisions. He did not dwell so much upon the work which seven could do as compared with nine, as he did upon the necessity of preventing the court from ever becoming an instrument which represented population, that it should be a court working toward principles which were generally appli-

cable all over the State, and not one which made up its judgment from the necessity of supposed conditions.

Mr. Justice Farmer, of that political faith represented by the minority on the bench, writes rather fully upon this subject:

"I am informed the committee in reporting the judiciary article will recommend the number of judges of the Supreme Court be increased to nine, and trust it will not be considered an impropriety in me to write you briefly my views on the subject. In doing so I assert with all seriousness and candor that I am not influenced by any selfish motive or purpose. It can have little effect on me personally whether the number of judges is increased or not, but I am deeply interested in the future efficiency and standing of the court. Fourteen years' service as a member of the Supreme Court has convinced me that any increase in the number of its members would be of no benefit to the court but would be in fact a detriment. In doing team work such as is required of the Supreme Court, I think it must be admitted by every one that the smallest number in the team sufficient to do the work makes for efficiency in the dispatch of the work. The larger the membership the more unwieldy it becomes. Three I think is the ideal number of men to do team work. That number would be inadequate to do the work of the court, but seven has proven sufficient. The bar and litigants desire and are entitled to the consideration and best judgment of every member of the court in each case, and that they now get. Any increase above the present number would only further divide and tend to lessen the responsibility each member of the court would feel in the decision of each case. Personally I do not believe in the system some states have of dividing the court into divisions and cases being decided by a division. So far as I am informed that system has never helped the court by improving the standard of the work done or the confidence of the bar. It is my firm conviction that an increase in the membership of the court would not be for the best interest of the court, the bar or litigants. A judge is not and should not be a representative of any locality or constituency. His duty is simply to administer the law to all individuals, interests and collections of persons alike.

"I must not intrude further on your time and patience. My purpose in writing you I again assure you is not a selfish one. I am moved to write you because of my deep interest in the judiciary of our State, and of the future standing and efficiency of the Supreme Court. I do not assume to have more wisdom than others, but I believe my service as a member of the court has given me some opportunity of forming a judgment as to what the effect of increasing the number of judges would be. It seems to me we should not experiment with a tried system, which it can not be controverted has on the whole proven successful."

Now I read you the expressions from four members of the court. The Nestor of the bench, the man that cannot be said possibly under any stretch of the imagination to be influenced by anything but the highest purpose of preserving and improving the efficiency of the bench, stands most outspoken of all the members of the court in his decision that it is a mistake to increase the number. The Honorable Justice Cartwright, who has been so long upon the bench, and to whom the members of the bar and the judges all over the land turn, as a man who stands by experience, by a long record of efficient service as the outstanding member of the Supreme Court, has been most emphatic and has written at length with the hope that his opinions might be received by the Convention in the light of their value from his experience, and in these latter days of necessity of his service, it seems to me ought to be most persuasive. This letter is written on November 12th:

"Your letter of the 3rd instant is just received and as you say you would like to have an answer by tomorrow, I shall have to make a very hurried one. In doing so, I beg to say that I express the views of the members of the court without an exception provided the classes of cases which come to the court are limited as they should be, so that seven judges can do the work. Even without such limitation any idea that nine judges can do more work than seven, is a plain fallacy and could only be maintained upon the theory that the cases would not be fully examined by each judge.

"Every litigant who brings a case to the Supreme Court is entitled to a fair and full examination by each member of the court and to the judgment of each. If that is done, of course, there can be no question that it will not make a particle of difference so far as expediting work is concerned whether seven judges are looking into a case or nine or 100. It is the examination of a case and of the issues and the law applicable to them which takes time and involves labor and when a judge has made the examination, collected the authorities and is ready to write an opinion, that work occupies but a very short time. In fact it is negligible as against the time taken to determine what the opinion should be. Of course nine judges can write more opinions than seven if they first know what to write, but as I have said, the writing is a minor matter and seven judges can do all the writing that is required or ought to be required of a court.

"An increase of the judges tends inevitable to less personal and individual responsibility in each case. Human nature is the same in the court as anywhere else and the fewer the judges, the greater the personal responsibility and consequent examination and full discussion. As the court is now constituted, it requires four-sevenths for a decision. With nine judges, a decision would have the endorsement of five-ninths, a material lessening of the proportion. The increase would inevitably tend to what is called one man opinions which is now the principal criticism of the court. If the idea is to increase the number of judges to expedite the work, that theory is wrong, because the correct way would be to limit the class of cases that come to the Supreme Court so that each case may have full and careful consideration. At present a very large proportion of the cases are under the Compensation Act, and every case involving a petty ordinance of a city or village may come to the court on the certificate of a judge of the trial court. The time of the judges is wasted on such cases that ought to be applied to cases of more importance.

"The plan of increasing the number of judges is contrary to the plan heretofore adopted and which has brought good results. That plan has been to divide the State into districts and allow only one judge from a locality. If there should be an increase by giving Cook county three judge, it would infringe upon that principle and if Cook county should be divided into districts, the objection would not be obviated, they would practically be from the same locality. Judges are in no sense whatever representatives of population nor of special or peculiar interests and in the Supreme Court of the United States, many of the most populous states with the greatest commercial interests and the greatest volume of business, have no member of the court, which has never been regarded as an objection. To say that judges in different parts of the State do not comprehend local questions in Cook county or the law applicable thereto is an absurdity. As I have said human nature is the same in court as elsewhere, and experience shows that a judge is affected more or less by the prominence both political and professional of attorneys from his own district. Some attorneys in Cook county having cases in court, have very great political and personal influence and so long as judges are elected by the people, any possibility of any influence, however unconscious on the part of either the attorney or judge, ought to be avoided and certainly three members of the court ought not to be subject to local or personal influence. I know that you and every member of the Convention will acquit me and the other members of the court of having the slightest personal interest, as nearly all of us have passed the age when there is any probability of again being candidates for office.

"The short time which I have had to frame this answer has compelled a statement which otherwise would have been more satisfactory to me."

I acknowledged that letter, promised to present it to the Convention, and received yesterday a reply amplifying the subject, which is very short, and so I read here a letter from Justice Cartwright:

"It ought to be sufficient to defeat the scheme that it is contrary to the whole plan for the creation of the court that no locality or part of the State shall have more than one judge. The districts are not and never have been equal or nearly so in population and the court is in no sense representative

either of numbers or the amount of business either civil or resulting from a prevalence of crime in any part of the State. If the plan is to be abandoned the State should be districted on the basis of population so that the court would have judges representing Peoria, East St. Louis and other cities with the special point of view prevailing there. There is a present object lesson in conditions and the recent election in Chicago which should make any one hesitate in giving more judges to Cook county to be elected by popular vote."

Now, gentlemen, I refrain from discussing the matter further for the reason that I feel I would be trapped from what to my mind is the unanswerable arguments and reasoning of those who know more about it than any of us in this hall can possibly know, when they say to us with this seriousness and experience of those men—and those of the most experience speak the most volubly and the most emphatically—that it is a mistake for Illinois to increase the size of its Supreme Court.

Mr. CUTTING (Cook). Mr. Chairman, in spite of two interruptions, I have listened with much interest to the eloquent and convincing argument of the gentleman from Champaign. If I were able to agree with him, I should be more than pleased, and I can say to this Convention that it is neither pleasant nor profitable for me to stand here and attempt in my weak way to combat the reasons which have been advanced not so much by the gentlemen, but by a portion of the Supreme Court. There is no one in this house who has greater regard for or admiration for the Supreme Court of this State than I. The gentlemen who sit upon that bench are all personal acquaintances of mine. I trust they are friends; I believe them to be such; and to differ with them is not pleasant. The gentleman has not read the replies of two of the justices, and I want, if he would permit me, to read the replies which he holds from Mr. Justice Carter.

Mr. GREEN (Champaign). Yes. I stated that I had received replies from them in which I do not think they take decided opinions either way. There are two letters from Justice Carter written at different times, and I have one here from Justice Dunbar.

Mr. CUTTING (Cook). Thank you. I happen to know what they contain, hence I make the request.

Before passing to this, permit me to take up the question of the influence of population on the question of the selection of judges. I have always believed that judges were not representatives of either population or location or special interests or anything else, except the law as applied to the cases which are brought before that tribunal. The gentleman from Champaign and I do not disagree on that proposition, but the State of Illinois long since embarked upon a system of electing its judges which necessarily brings into existence the question of population.

If you will refer to the Constitution under which we are now living, in which the proposition of the composition of the Supreme Court is provided, you will find that there are districts laid out in 1870, seven of them, and each of them is, I assert, substantially equal in population; but we do not have to depend upon that fact. I simply read what is said in that Constitution:

"The boundaries of the districts may be changed at the session of the General Assembly next preceding the election of judges therein and at no other time, but whenever such alteration shall be made the same shall be made upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of any judge."

Why did the people in 1870, when they constructed our Constitution, take into consideration the population? Why did they say that the districts should always remain equal in population? Illinois is one of a peculiar type of states in the matter of the selection of its supreme judges. 28 states of this union select their judges upon a general ticket voted by the people of the State irrespective of locality, and not only that, but the great State of New York—and when we are talking about limitations on Cook

county, New York is the fountainhead from which inspiration is drawn to excuse and to bring arguments in favor of such limitation; but New York, with all its great city, never for a moment dreamed of putting the shackles upon the City of New York in the judicial department. The seven judges elected to its Court of Appeals are elected upon a general ticket, and at the present time there are two judges of the Court of Appeals of New York who live within greater New York and one judge who lives in the immediate suburbs, making three of the seven.

Pennsylvania—I am speaking now of the few states that have greater population than Illinois—while it has seven judges, it has a lot of limited courts which differ very materially from that which we have. It elects those judges for 21 years, and elects them on a general ticket. Philadelphia is not hide bound. There is no limitation upon Pittsburgh. Ohio, a state comparable with our own in the matter of its population, elects seven judges to the Supreme Court, but it elects them on a general ticket, so that the people of every locality have something to say about the composition of their court. So that the people as a whole make the selection.

I have listened in this hall again and again to eloquent tributes to the reliability of the people of the State of Illinois. I have heard it said again and again here—and the gentleman who has just addressed you has not been the least among them—that it was the people's mandate that carried with it the real question of power; that the people must be allowed to select their judges; that the people must be consulted on all questions connected with the administration not only of the executive and legislative, but even of the judicial branch of this government. I am one of those who believe in the appointed judiciary, and I believe in it because the executive which appoints, and the senate which confirms all are elected by the people and are responsible to the people, and all the people have their say on the question of the election or suggestion or appointment of the judges who are to judge the people.

Why did Illinois start in this way? I do not care to go into the historical references which might be given to show that it was done for a political purpose in the beginning, that it was to save votes for the Constitution, that it did not propose to do the things which were likely to defeat the Constitution created in 1870, and so Illinois—and the gentleman has referred with some irony to the company in which we would be if we had nine judges; I will now give the company which perhaps the gentleman is not specially proud of. There are but three states in the union which do the thing which we do, namely, divide the State into divisions and then elect from those divisions; and those two states are Mississippi and Louisiana. Illinois, Mississippi and Louisiana, the triumvirate, if you please, the Trinity which alone in the United States of America elects its judges in that manner, and even there, the only state of the three outside of Illinois, which is a large state, Louisiana, in which New Orleans is situated, provides for exactly the thing that we are providing here. It divides the State of Louisiana, which as a whole is less than Cook county in population, and by the way, gentlemen, has it dawned upon us that there are 38 states in the union which have less population than Cook county by the census of 1920? It is a fact. Louisiana is divided into four districts, and it has five members on the Supreme Court, and the New Orleans district has two judges. Why? Because it is by far the most populous district within the state. It is the center of its business. It is the place from which all other things radiate in that state. It is the point to which they gather. It happens to be nowadays the capital of Louisiana, and therefore, in view of its population and its importance, it is given two judges, whereas each of the other districts is given one.

Mr. CUTTING (Cook). When we came here to this Convention we did not bring with us this proposition of adding to the Supreme Court and making two extra judges from the County of Cook, and not from the City of Chicago—why, gentlemen of the Convention—there is situated outside of the City of Chicago in the seventh district, which would be composed besides Chicago of that part of Cook county outside of Chicago, Lake, DuPage,

Will county and Kankakee, more than six hundred thousand population. Larger than any one of the Supreme Court districts down State. In addition to the city, and it would be if the city is the sum of all iniquity which I am not discussing, at least that portion of Cook county, Lake, DuPage, Will and Kankakee counties outside, is the saving grace that ought at least to be considered. I haven't the slightest objection, and before we get through, if necessary, I am perfectly willing to add to this provision that all that portion of this district outside of Cook county shall elect one of the judges by itself without the contamination of Chicago. I am not standing here for a moment to say that Chicago should have this, but that this district should have more than it has got is so plain that it is like saying two and two are five.

Let us look at the statistics for a moment. In 1910—I have to go back to that because I have not all of the statistics before me for 1920,—in 1910 the first district had six hundred and five thousand, the second district had five hundred and sixty-five thousand, the third district had six hundred thirty-one thousand, the fourth district had four hundred two thousand, the fifth district had four hundred thousand, the sixth district had fourteen thousand, the seventh district had two million six hundred eighteen thousand. All of those were substantially equal in 1917, but the great and marvelous growth of the City of Chicago and Cook county and the adjacent counties, has put the population of that six times of any other. So you have the condition today, gentlemen of the Convention, that the population of the seventh district is more than equal to all of the rest of the population in the State of Illinois. Now, if you want to do the thing that the gentleman seems to argue for, and to which to my mind would be the absolute result of his argument, you will elect your judges on a general ticket, I don't care whether it is seven or nine, if seven is the magic number which can only work in the Supreme Court let it be seven, but let them be elected as the gentleman says, and says correctly, and not as the representative of any particular locality, of any particular population, but of all the people of the State of Illinois. I said when we came here we did not bring this scheme with us. It was brought here, there was sixteen different proposals brought to our committee on the question of judiciary department. Sixteen different proposals and all but one had within them nine judges for the Supreme Court of this State. It seemed to be the general consensus of everybody that it is unfair, that it was improper, and directly against the spirit of equality, that is supposed to be inherent in American liberty, to say that twenty-six hundred thousand, now more than three million one hundred thousand people, or to put it on the basis of the district, thirty-five hundred thousand people, in the seventh district, shall have one judge, and that three million and less than one hundred thousand shall have six judges.

Mr. FIFER (McLean). Where is your constitutional requirement, or otherwise, that requires the situation which you have explained?

Mr. CUTTING (Cook). I will tell you in a minute, I will be very glad to explain that, I had not quite got to that, you mean why the legislature cannot change it, is that the proposition?

Mr. FIFER (McLean). Yes.

Mr. CUTTING (Cook). I will take it up now then out of order.

Mr. FIFER (McLean). Isn't it entirely a legislative question, Judge Cutting?

Mr. CUTTING (Cook). It is not.

Mr. FIFER (McLean). If we change the Supreme Court districts?

Mr. CUTTING (Cook). Yes, but with a limitation which makes it absolutely inoperative as to Cook county.

Mr. FIFER (McLean). What is the limitation?

Mr. CUTTING (Cook). I will tell you what it is if you will listen to me just a minute, you need not go further than the judiciary proposal which is before this body right now. If you take the minority report you will see this, the State shall be divided into seven districts for the election of judges, and until otherwise provided by law they shall remain as now constituted,

one justice shall be elected from each district. Now, if you will kindly turn to the forty-second section of this very act,

(Reading section.)

The boundaries for the districts for the election of justices of the Supreme Court and the boundaries of the Appellate Court districts may be changed by the Assembly, but such alteration shall only be made as nearly as county boundaries will allow upon the basis of equality of population, and the district shall permit. You are limited to county boundaries in the matter of creating these districts, and the Supreme Court in discussing this very language, in a case which went up from the fourth district has determined that you cannot cut a county. Now, if you cannot divide Cook county and you cannot under the present Constitution, and you cannot under this provision, you have fixed for all time that the district in which Cook county is situated, will have but one judge and it is apparent from the language that there must be counties in the district.

Mr. FIFER (McLean). Wouldn't that difficulty be removed by a very slight change in the present Constitution?

Mr. CUTTING (Cook). I suppose it could be removed.

Mr. FIFER (McLean). And it would be a legislative question?

Mr. CUTTING (Cook). I think not. Let me suggest to the gentleman from McLean, if it is a legislative question, when you have gotten done with limiting Cook county, it will not be a debatable question, and that leaves it absolutely fixed in my humble opinion for all time, that these three million people shall have one judge and four hundred down State shall have another. I wonder if these gentlemen from the country districts sitting here, and it is to them we must appeal because we are powerless without aid, I wonder if you have your circuit made up and there is a large county with a large population in it, did you never hear that they want a judge because of the population? You will always hear it, the little counties are left out because they are small counties.

Mr. GREEN (Champaign). Is there any other difference—is there not a vast difference between the selection of judges for a nicitrius court and the selection of judges for the Supreme Court?

Mr. CUTTING (Cook). There is a great difference in their business, and the calibre of men that we select, but the people that are interested in either one of them is not different from the people in the circuits, as to the judges to be elected therefrom. They stand in exactly in the same position. I want to emphasize the proposition that has been brought out, it is slightly out of order in what I propose to say, and that is on the proposed proposition of this change in the Constitution by the legislature, this change by the legislature is absolutely inoperative as to Cook county, and if this article should be changed to leave it to the legislature instead of righting us this wrong by this assembly we shall have no relief from that source in all human probability. Those same reasons will be given why this system was adopted. Why was this system adopted? This ninth judge arrangement, rather than redistrict the State into seven as required by the State Constitution of 1870? The State Bar Association of Illinois made and recommended this scheme for the Supreme Court and there was no objection either by the Supreme Court or by the men who proposed it. It had not developed until much later, and they said it is much better to leave the districts down State with their proper representation on the bench and not disturb them, not take away from them the election of the judges, not take away from them the fact that two-thirds of the court will be from down State all of the time, but we will add just two more, making the number nine, and in that way we give to the one-half of the people of Illinois one-third of the judges. If there is anything in the election, if there is anything at all in popular power, in the courts or in the legislature or in anywhere else, it is that the majority shall rule, it is not that the minority shall rule. One of the maxims I think that has been well settled by historical experience is that when republics have begun to decline it is the moment they took from the majority the power to rule. We will concede that judges are not legislators, yet the idea that one man has six times the potential

power over all other men located in other parts of the State is abhorrent to all ideas of American fairness. If locality is to bar someone because he is likely to send an improper person, then if you are going to pick out localities and say we are going to disfranchise them, you are embarking on an absolutely destructive course and you cannot do it. The next thing to be said after you start that is all we are going to discriminate against that locality. Someone has said there are other things more dangerous than localities, a certain religious sect is altogether too active in politics, they do too much to elect their own people, they are united and they come from a common source, they are going to do something, because that religious organization wishes it to be done, therefore we will limit them no matter where they happen to be located. We will undertake that, and next we will come to the race question, and the man of this color or of that nationality we will say is altogether too active in politics and he must be curbed; we must sit on him; we must in some way put him where he cannot do us any harm, and then we will have race discrimination as well as locality discrimination, which is proposed by this proposition. Next we are likely to go further, beyond the ramifications of society and if the people do not happen to satisfy us, we who have the power we will put some clamp on them, we will tie them down and we will put them in a box somewhere and lay a cover on them so that there can be nothing done that will injure us. I wonder if it has been thought about this question as to the efficiency of nine judges? I just want to read a line on that proposition, I will read it all if desired, but there is no question about that from Judge Carter. He says, "I am in full accord with the arguments used that a court of seven will do its conference work more expeditiously than a court of nine." Why of course they will, a court of five will do it more expeditiously than seven, and a court of three will do it more expeditiously than five, and a court of one will do it more expeditiously than any other number on earth, and so we get right now to the *reductio absurdum* of the whole proposition. "Increasing the membership of a court from seven to nine will have a strong tendency to lessen the responsibility that each judge will feel as to the work of the court, but I do not agree that a court of nine cannot obtain satisfactory results in the disposition of the business of the court. The Supreme Court of the United States or practically fifty years now, has been composed of nine members; the court of New York, the highest court of review in that state for years, at least ever since I have been on the Supreme Court of this State, has usually had nine working members and sometime has ten, and I might have added a great share of the time eleven members. I have talked with both the judges of the Court of Appeals and the Supreme Court of the United States in recent years, and I am satisfied that they feel that the size of the court is not a serious handicap in the disposition of their business in a practical way." Now, if it comes to the question of experience, there is your experience, the judges of our court have never sat with nine members, not one of them, but the judges of the Court of Appeals of New York have with nine, with ten, with eleven; the Supreme Court of the United States is composed of nine members and for fifty years they have gone on their way making as it were the laws of this country, interpreting it and adding to it in a way that has been the admiration of all men, and there are nine of them, and those men say that it is not hampering any that there are nine instead of seven or five or three or one.

Mr. FIFER (McLean). Do they do district work?

Mr. CUTTING (Cook.) They do not now, they once did. They do not any more, at least it is a farce in the doing. That is, the Supreme Court held that Circuit Courts, but there has not for years, but if they were that would be another reason why nine judges could function, they have a tremendous amount of work to do, and without nine judges they could not do their work and function at the same time, yet they have always done that.

Mr. FIFER (McLean). In all the fifty years that the present Constitution has been in force, has there been any effort on the part of the members of the General Assembly from Chicago to change the districts so that Chicago would have its proper representation?

Mr. CUTTING (Cook). No, because the Constitution absolutely forbade it, which is the best reason in the world. It could not be changed, they could not increase it or infringe on the boundaries of Cook county.

Mr. FIFER (McLean). But they have been very successful in getting amendments, has there been any effort to amend the Constitution in that way?

Mr. CUTTING (Cook). I don't know of any such thing, Governor, but if I read the signs right, and if the idea which you seem to champion is prevalent down State it would be a useless thing. We are coming here now trying to get an amendment to the Constitution and it is opposed. We are trying to do that identical thing. Now does anybody suppose for a moment, I have as much regard for judges on the Supreme Court as anyone sitting here, I haven't a word to say against anyone, I have been accused I hear, of having some ulterior motive in the matter of trying to get what I regard as a fair representation, if you choose to use that term so that all of the people of this State will be properly represented, and I would rather, and I am ready, to throw this over now if you want to contract the matter to seven, if you will put it on a general ticket, and then I don't care where the people come from, or if you prefer the Indiana system, and want to keep the districts and let all of the people of the State vote on it, and so you can have as much to say about the one that comes from the seventh as I do about the one from fourth, I have no objection to that, but so long as you tie us down to districts and say that the districts shall elect only a man from that particular district, and we have nothing to say about the personnel of the people down State I say it is not right, it is not American that you should select six men down here and we should select one up there when we have got more people to do the selecting than you have down State in all the districts. It is like arguing two and two are five, as I said a moment ago as to argue on that proposition. Nowhere else in the United States is there any such thing existing. Are you unable to start in on a new venture in this matter? Although New York in the matter of its legislature limit—we will talk about that when we get to it—although New York did limit the legislative power of greater New York not in any way such as you propose, however, although it did limit it, no man ever dreamed, and I read the constitutional debates on which the Constitution of 1894 was founded, no man ever dreamed of limiting the judiciary department.

Mr. GREEN (Champaign). Can you cite any instance at any time in the history of this country where the proposition was suggested to write into the Constitution a provision that gives to any one particularly congested district the absolute guarantee that as long as the Constitution lasts, they would be assured of one-third of the members of the court?

Mr. CUTTING (Cook). No, sir, I have one law where it is written in the Constitution where they will furnish two-fifths of the court which is a matter absolutely of the same kind.

Mr. GREEN (Champaign). That is Louisiana.

Mr. CUTTING (Cook). That is Louisiana.

Mr. GREEN (Champaign). By districts or at large?

Mr. CUTTING (Cook). Elected by districts, just exactly the same as the proposition you have here, if you would get away from districts and get away from the local electing districts, and to the American principle of electing districts at large.

Mr. SHANAHAN (Cook). May I ask the gentleman a question, what are the objections to the election of judges at large?

Mr. CUTTING (Cook). The objections stated to me, in private, are that you will get what you want, you will elect two-thirds of them from that vicinity, and that is what we don't want, we are afraid of that. Let us be frank. They say they are afraid of it, therefore if we put it on a ticket at large, as they do in New York, gentlemen of the Convention, we are getting to this proposition, and it does seem to me it ought to cause a halt and cause us to think carefully and long on the proposition. I think it is fully and well conceded that the representation of Cook county is to be curbed, if not squelched. Now if you propose to put in a judicial, or perpetuate the

one which has existed for the last twenty years at least, then the legislative and judiciary of Cook county is to all intents and purposes a conquered province which is being administered from without. I say again, gentlemen, do not desist, if you have got the legislature and the judiciary I most respectfully suggest to you that the executive ought to follow. I can see no reason why one of them is more dangerous than the other, and why the third department of this government should not follow with the legislative and the judiciary. I say there is no magic in nine men on the bench, nor seven on that bench, I say human experience teaches us that they can function well.

Mr. TRAUTMANN (St. Clair). Will you be in favor of providing that not more than one judge shall come from a district but that they shall be elected by the entire electors?

Mr. CUTTING (Cook). I would say that would be a very decided advantage, I should prefer it very much, and I think it would only be fair if the districts are retained, the nine judges should be voted on by the whole State, you should vote on the one that comes from the seventh the same as we vote on the one that comes from the second or third or fourth. That is the Indiana system, and I have no objection to it.

Mr. GREEN (Champaign). That is not his question, his question was if we retain the seven districts, but provided that they be elected by the State at large, they should be elected from the particular district—

Mr. CUTTING (Cook). I understand him perfectly, that is what I understood him to ask.

Mr. GREEN (Champaign). With no increase in numbers.

Mr. CUTTING (Cook). If you could redistrict the State into seven substantial real districts, or some such provision, yes, by all means yes, I would be glad to have that arrangement. It would be much better than anything we have today, or we will have on either of these schemes. Now, gentlemen, I think I have shown you that this matter, if it carries, forever fixes the future of the great seventh district so far as Cook county is concerned, and can never be changed during the life of this Constitution. You will always have the same inequality, the great inequality that exists now. Not the ordinary inequality between districts, no man claims an exact numerical equality is possible if you are going to have districts, we do not claim that, but we do say that the great City of Chicago, the County of Cook if you please, the State metropolitan district is an integral part of the State of Illinois and it ought to be treated as a part of the State of Illinois. That does not mean foreign and outside of the State. If it is a part of the State, it has a right to proceed in all its activities on equality with other citizens of the State of Illinois. If you undertake to say that our population is less desirable from your standpoint, it may not be so long before someone may point to your locality as an undesirable location. If you go into that you have destroyed, you have indicted the representative government; you have absolutely thrown out government for the people, of the people and by the people, and say that a minority shall determine all those things. I want you to put up on the border lines of Illinois, if this scheme is carried out, I meant the whole scheme, I want you to put up on the border, wherever a railroad crosses, "All ye who enter here take due notice that the Constitution of this State provides that the minority shall control," and when you have done that you will have been honest in this matter, if this goes through. I don't undertake to say that I am wedded, or those who think with me, are wedded to nine judges. We did not propose that, we adopted it. We do not say now that nine judges should be elected, but we do say it is wrong, that it is iniquitous, that it is bad; why send it to the legislature? The Constitution of 1870 divided this State, this one proposes to do the same thing, but do it here, and do it now, and put these things on a fair basis. If anybody wants the seventh district divided into two more districts there is no possible objection to that. If you want it so that the City of Chicago can have but two there is no objection to that, we will be glad to put any of those things in, if you think they make the matter any clearer or safer, or better

for all parties concerned. The matter has been carefully considered in the committee. In the first place the committee had no objection and the majority of the committee repeatedly voted in the beginning, when we started, that there should be nine judges. That has been changed, there is an objection.

Mr. GREEN (Champaign). I think a correction should be made, there were only one or two down State members, they were mostly of Chicago.

Mr. CUTTING (Cook). No, that is right they were not all there but those that were there all conceded that it was the proper thing to do, that it would disturb the districts not at all and it would give us the representation we are entitled to, and the question was lightly thrown aside by the gentleman in his argument, population does not count, it does not count in relation to free government. The State does not consist of courts; it consists of people; the people make it, and if one locality is to be represented it must be on the basis and ought to be—because we get this contradiction of terms all of the while in the argument that the various localities must be represented they say, yet the judicial offices are non-representative,—all of the causes, the peculiarities, the particular things which are a part of their body politic and political situation must be understood by the judges, and yet you expect one man out of three and a half million people to understand all of the various activities of the great City of Chicago, and County of Cook and the adjacent counties. I say that that is not fair. I say that it is not true, that if there is anything in a man representing the Rockford district, if there is anything in a man representing the Peoria district, if there is anything in any district that is represented on our bench at the present time, as it ought to be, if there is anything in that, do you think that any man can take and consider and be experienced in all of the commercial activities of the great center like Chicago? It is not possible. You may take it in your commercial centers, in your small towns and cities, and accomplish it, but take it in that city with all the spread of its population, from the Stockyards to Evanston, and then across again from Oak Park to the Lake and you will find more activities and you will find more disparity in disposition and character, and conflicting interests than you will find in any other district, ten to one, in this State, and there is no such thing as one man having all of the views representative of that district. Gentlemen from Cook county, and down State as well, it may be that we ought not to have more than one judge, I have not heard that argued yet, I have heard it said that this should not be changed, that we should let it stand as it is because it is. Gentlemen, that is the inertia of politics; things must be as they are; it cannot be changed by the legislature, and if it could with the provision you propose to put upon us we never could get it, because it would reduce your power in the Supreme Court of the State.

Mr. FIFER (McLean). Has there ever been any effort on the part of the members to change it? Broadly speaking hasn't the present system worked well for the past fifty years, has any evil arisen from it?

Mr. CUTTING (Cook). I don't know of any evil, particularly, but the representation on the Supreme bench has never been from our end of the State what it ought to be. It could not be. I am not criticizing the man, but it could not be, no man could possibly do it. It is not possible that he should. We have always sent down perfectly responsible, able, honest officials here. We have not sent any Bolsheviks or any person of that character. There have always been men of standing, and men in whom every one of you have confidence, and we shall continue to do so, if we are given the opportunity, but to say that one-half of the State, and more than one-half of the State, shall select one judge, and the other half six, it seems to me is the acme of doing something which has never yet been done in the United States of America. There is not a case where any limitation of that kind has ever been put on; they have limited it in legislative matters but never judicially, until now it has never been proposed. Gentlemen of the Convention, if what seems to me to be the iniquity of the situation, the inequality, the un-American condition does not strike you nothing I ever could say would make it. I cannot argue against your feelings or your

judgment, or what your prejudices may be, I cannot do that, I can only present this matter to you, and I can only say that if you believe one is equal to six, vote for the substitute. If you believe something more—we have not asked what the population required, if we had we would want four out of seven or five out of nine, because we have got the majority of the districts, we have not asked that, we are conceding what the State Bar Association says was the exact proportion. I have nothing to say, and neither have you about the efficiency of the nine judges. If the Supreme Court of the United States functions with nine, we have men in Illinois who can do the same, and then it will not be necessary to stop all your cases at the Appellate Court in order to relieve the Supreme Court, and you can go on and get a judgment of that high tribunal on that proposition. It will not be necessary to cut them off then, in the way that it is proposed be done.

Mr. GREEN (Champaign). Do you think the court is in error when they say that seven judges will do more work than nine?

Mr. CUTTING (Cook). They are men like you and I, we never had nine men in this State, and they do not know; we can only say if New York can function with 11 judges, a great share of the time, if Maine can with 8, Michigan can with 8, if Maryland can with 8, if Oklahoma can with 9, and so on through the list, Illinois can with nine, and I do not believe that anyone, Delegate Green or anyone else, has the slightest doubt but that the efficiency would be as good after two more men were added, if they were of the right calibre. Of course when you are electing judges that is always the question, you do not always elect men of the highest calibre down State, we don't always, perhaps, do it, but we have done it in the past and so have you. We all are proud of the court. After a consultation a number of the State justices and State Bar Association recommended the nine judge scheme. I am heartily in favor of it, because it has in it the element of justice, the element of right, the element of good, straight forward common sense, as it seems to me. I thank you, gentlemen.

Mr. ELTING (McDonough). I think this is a matter of very great importance. I have no special criticism to make of the majority opinion of the committee. I think it represents a great amount of effort, and labor, and they have engraved into that article a lot of practical ideas; that is the combined idea of practitioners and people from all over the State of Illinois have approved of the nine judges and disapproved of the minority report maintaining the seven. I think the practitioners and people at large will agree with me that the reasons that we have endeavored to present in favor of the nine judges are safe and sane. When the Constitutional Convention created this court with seven members the population of the State of Illinois was 2,539,891 people; the State was then smaller than the City of Chicago is today. It was deemed advisable by those men that seven supreme judges was necessary to attend to the business of this great commonwealth. This is a representative form of government, and the judicial department is only one of the branches of that republican form of government, and is entitled to as much veneration and no more than either of the other branches of the republican form of government, and this court should be representative, that is one of the fundamental principles of the representative form of government. The judges as I stated before should be representative, as they owe their allegiance to the great commonwealth.

Now, why should we have nine judges? The facts are these, with a good bit of trouble and pains I have gone into this matter of the overworked condition of the Supreme Court; in the first place it holds five sessions during the current year, and about three of four weeks of each are used in those terms for calling the docket, considering petitions for rehearing, passing on motions, considering opinions submitted at the term, hearing oral arguments at the sessions, and it is safe to say that the time thus occupied, including the judges' vacations and other matters taking up the time of the judges, can be conservatively placed at six months; one-half the year is used in thus functioning, and a casual examination of the dockets of the Supreme Court records, considering opinions that are written when rehear-

ings are granted, discloses the fact that each judge is obliged to examine, consider and prepare opinions in approximately 75 cases during the year, and allowing six months for the sessions of the court, as above stated, leaves only six months or twenty-five weeks for each judge to examine, consider and prepare opinions in 75 cases, an average of two days for each case. The facts are startling when it is known in some cases a week and even weeks are required to examine the records in particular cases. There is not a lawyer in this Convention but what understands the amount of labor necessary to examine the record in an ordinary case that is presented to the Supreme Court. Why the judges could not take down the books from the library and begin to examine the cases that are cited in the average case in that length of time, it is an utter impossibility; and the Supreme Court judges will tell you in presenting your cases to the Supreme Court you should select one or two cases and cite your best case first, because we do not have any time to examine so many authorities, and the lawyers really try to do that. But that does not dispose of the fact that they are now limited to two days to examining the record and writing an opinion in each case, and I say as a lawyer, and I have had some 28 years experience at the bar, and I tell you I would not want to examine the average record in a lawsuit and prepare a proper opinion and do it in two days, I would want to sleep over the opinion one night after I had written it, and then re-write it the next morning—it cannot be done.

The gentleman from Champaign presented a very able argument in favor of the seven judges, but the basis of his speech is founded on this fact; that the cases come from the Appellate Court, must be properly curtailed, and he speaks of the litigation from the Appellate Court as rubbish. I don't know whether he means the opinion or the cases that find their way to the Appellate Court, but I say, gentlemen, those which reach the Appellate Court are contentions between the people of the State of Illinois, and they are just as important as the larger cases and the law is just as important and the proper administration of justice just as necessary as in the larger cases which find their way to the Supreme Court. And I may argue in passing that many of the opinions of the Appellate Court have been adopted by the Supreme Court as the law, and I can point you to Judge Adams from Cook county. Probably more of his opinions have been adopted by the Supreme Court than of any other judge of the Appellate bench, and Nathaniel Sears of the Appellate Court, his opinions have been followed by the Supreme Court. Now it is not a question of whether seven can do it, as they say, just as easy, I do not think that they can; anyhow these letters that we get from the Supreme Judges on this matter are *exparte* as we lawyers would call them, only one side of the case being presented. And they present that opinion from that person's view point. Honestly so, because I think a man that is given power, power continues to grow with him. I can point to one or two cases like that in the present system. But we must not lose sight of the fact that our courts are not created for judges, nor the judges for the court, but that the courts are the agencies of the people, absolutely. Now then, is it fair, and does this Convention want to put itself on record to keep the old number of seven judges, in the Supreme Court on account of the fact that the cases from the Appellate Court can be properly regulated as it is said? I don't know what they mean by properly regulating cases from the Appellate Court. They are lawsuits. They are lawsuits where the property of citizens of this great State is involved. They may not run up into the millions, but certain cases go to the Appellate Court and they are entitled to recognition. They are entitled to have the law expounded. Another thing, the petition of the writ of certiorari was introduced as a means of limiting the appeals to the Supreme Court, and it has been said on this floor by a prominent attorney, that members of the Supreme Court log-rolled that law through the legislature; and what is the result? They tell you that some forty per cent of the cases that make application to the Supreme Court are denied, hence, keeping those cases and those people in the Appellate Court seven of us are ready to go ahead and decide the few cases that get

in here. As was stated by one speaker, when governments begin to decline they begin to cut out the little litigant, they do not have time to hear the appeals of the common people, the court is too busy, and if you will notice the prelude in most of the letters that have been read here "My answer has been delayed on account of the swamp of business," or overwork, not just in that language but that is the inference. I have no criticism to make of the Supreme Court, I think it is a magnificent court, but we are not here to reverence that body any more than any other part of the State, but a new condition exists. We are now a State of nearly seven million people, and the idea of appointing seven men and pinning them down to the hard and fast rule that you must under the present conditions, examine the records, write an opinion and decide a case on an average of two days to each case, is impossible. I don't know, I may be different from other lawyers, but I would never undertake to submit a brief to the Supreme Court that I had not worked on over two days; probably weeks and probably months, have been put on that brief to properly present it. Take it in the older days the bills of exceptions were probably shorter than they are now, because lawyers prepare them themselves, and they prepared the bills of exceptions on the points in the controversy, or upon the supposed errors, but since the coming in of the typewriter and the shorthand reporter, these records have become more voluminous, and it is no uncommon thing to have a record of one hundred to one thousand or fifteen hundred or two thousand pages; and you start a judge in on a record of one thousand pages and tell him to digest that, especially when there has not been any oral argument, to digest that and properly decide it and write an opinion in two days, is impossible; that is what we are asking of our judges now, and I think if there should be a deliberative body in the three branches of the government it should be the judiciary. They should have plenty of time to consider the rights of litigants. We have in our bills of rights, something like this, every person ought to find a certain remedy in the law for all injuries, and wrongs, which he may receive in his person, property or reputation. He ought to obtain by law, right and justice freely, and without being obliged to purchase it; completely and without denial; promptly and without delay. The fourth branch of our government is the individual right, and the courts are the people's agencies, and they are entitled to have their rights litigated as speedily as possible. Now the demands of business of this great State of ours today are such—it used to be a case could lay in the Supreme Court a year or a year and a half, or two years and nothing would be said about it, not an uncommon thing for a case in your Appellate Court to be up there a year or eighteen months or two years—but the business of the country is moving faster, and your clients are demanding that the matter be disposed of; either for better or for worse, and they begin to enquire how long it would require for a case to be disposed of, if defeated in the Circuit Court, and taken from there to Supreme or Appellate Court. And we must tell them that the next term is so and so, it will probably be a year before we get it back from the Appellate Court, and then if it goes up to the Supreme Court well you can safely count on another year; and they say "I cannot wait, I am tied up in my business, I am tied up in this law suit, I will have to take my loss" and we will settle the law suit. That is the result in a good many cases, but that is not giving the people what is preserved to the people in the bill of rights, the protection of their individual property. Some writers designate the rights of individuals as the fourth branch of the government, and if we are denied this, if the people are denied this particular right, where they should have it, gentlemen, that is where your trouble begins. Everybody should have their matters disposed of freely and in a reasonable time.

Another thing, I mentioned this matter of certiorari, a lawyer can never advise his client whether his case will get in the Supreme Court or not, he must prepare his petition and brief, and the report comes out petition denied, and after he has failed he cannot give any explanation to his client as to why his case did not get in and Jones' case went up. Now it is the satisfaction that people get out of their law suits, what they are clamoring

for, that is what makes a satisfied people. I have been asked the question if I did not know that if I supported the nine judges, it would give Cook county three judges, well, that is just about the proportion that we propose to limit them in the legislature, and the judiciary department is one of the departments of the government, and I want to read you what Justice Fuller said that the Federal Constitution granted to each state.

Chief Justice Fuller in *Way v. Duncan*, 139 U. S. 449, said: "By the Constitution, representative form of government is guaranteed to every state in the Union, and the distinguishing feature of the form is the right of the people to choose their own officers for government administration, and to pass their own laws by virtue of the legislative power reposed in legislative bodies, whose legitimate acts may be said to be those of the people themselves."

Thus again, the law is only the sovereign people themselves who speak by the mouthpiece of the law and the courts created by the Constitution for the exposition and enforcement of law, they are the people's own institutions and agencies. Therefore, I say it will impose no hardship on the State to give Cook county three judges out of the nine, and only a few years hence, it will be that more than half of the population of the great State of Illinois will reside in Cook county, and the history of the judges that have been sent from Cook county rank favorably with the judges that have been elevated to the bench from down State, and we have a very able and distinguished court. No trouble about that, I join with all of you in giving the reverence that is due to them. The fixing of the number of judges in the Supreme Court is absolutely our job and we should decide that from our own knowledge and experience in governmental affairs, doing what we think is best and right for the great commonwealth that we represent here. I would not bar out the experience from the outside, but I simply say that the thing to do is to prove the need and hope for that which is good.

Mr. WALL (Pulaski). As one who lives in the southern part of the State and as one who has up to this time taken but little part in this discussion it seems to me there is one, only one practical point in that that is really worthy of consideration. This question is not so all important, there are many questions which have come before the Convention more so, whether this shall have nine supreme judges or seven. It seems to me the only question in it is this, and I am going to be very brief here, because what I may say may not be of very great interest. Do the demands of justice, the speedy and efficient administration of justice, require the increase of the Supreme Court from seven to nine members, and will that court more efficiently, more speedy and more satisfactorily administer the affairs of that court if we do not. If it will not, why do it? It will not solve if you create here a court of nine justices, the inequality of population discussed here by the very eminent delegates from Cook county, and it will still be a limitation and an exceedingly great limitation, because it is evident from the census of 1920 that a majority of the population of the State in that great district, the district in which Cook county is located, and if we were to create a court based on the important question of population alone, in the distribution of judges, it would be necessary here for this committee to change this report to say that five judges will be elected from that district. So you see we are not coming back to the cardinal principle of a court by population, but only in a very limited degree. In other words it is the question of limitation in degrees, and therefore I take it unless a greater reason can be seen than that, for the creation of two more judges, we ought not to do it. Now what are the facts? I understand the Supreme Court is well up with its work. I have heard four letters read here from four of the judges in that court, and they say that seven judges will do all of the work that is necessary to be done to efficiently perform the duties of the court, and one of these judges, Judge Cartwright, I happen to know, in fact I have confidence in all of them, but especially Judge Cartwright, his views on this subject have impressed me to the extent I believe I have changed my mind as to how I am going to vote on it. When I take into consideration what he says on it, and refer to the section in the majority

report with reference to the Supreme Court having the right to fix the finality of jurisdiction in the Appellate Court, I believe that will relieve the work of the Supreme Court to the extent that in Judge Cartwright's opinion and the opinion of these other two justices, that for a number of years to come if this Constitution we are now making goes into effect and remains in effect, seven judges will be able to do the work. If that is a true statement, is there any necessity for it? Should we go ahead and increase the number of the judges of the court against the judgment of Judge Cartwright? Who knows better? Who knows better than this honorable jurist who has been on this court for years and years, who can have no ulterior motive to put before the Convention? Now it simply is that we ought to consider very seriously what we know about it. And the fact is, as I said, the Appellate Court will take final jurisdiction in many cases that it has not heretofore had, and dispose of comparatively unimportant litigation that now finds its way into the Supreme Court. Seven judges can do it, and while the item of salary does not amount to much, yet there is a saving to the State of twenty thousand dollars a year, for two judges, and their secretaries, etc., and the other incidental expenses for the nine instead of seven judges. That is a small item, it is true; we should not haggle over the matter if there would be any reason for putting them in. I think seven judges can do the work, as able and convincing as was the argument of the distinguished delegate from Cook, from his viewpoint of the situation. I have heard no argument advanced by any member of this Convention that the necessity is apparent for the more speedy and efficient administration of justice, for nine instead of seven, and for that reason, Mr. Chairman, I am inclined to favor the minority report.

Mr. FIFER (McLean). Before the number of judges of our supreme bench is changed some good reasons must be pointed out why the change should be made, that is, some evil working of the present arrangement. Now we have had a bench for seven judges of that court for the long period of fifty years, and after the lapse of that time the members of this Convention sought the information had by the members of the supreme bench after a long experience as to what changes should be made. It was eminently proper and right that the members of the Convention should seek that information from the members of the court. It was not only highly proper but it was the duty of the members of the court to furnish that information, and when it was furnished we find that the court is up with its work, and it feels that an increase of the membership of that court is not only unnecessary but would work evil to the court. Now that being true, what reasonable excuse, what reasons—and nobody disputes it—has this Convention to increase the membership from seven to nine? I don't say it in any spirit of flattery, but only state a matter of truth in history, that the decisions of no court in this free land of ours has been superior to the decisions of our own Supreme Court. Then why make a change? The distinguished judge from Cook county started out in his remarks by saying that the court was not a representative body, and then wound up by insisting that a certain section of the State was entitled to three members by reason of its great population. The people from Chicago in fifty years have never asked for this change. The people in the seventh district, the counties outside of Cook county, have never asked for it, at the hands of any General Assembly. They were satisfied with the arrangement. The Bar Association of the State and the Bar Association of Chicago sent out proposals, I suppose every member of this Convention received them, a judicial proposition as to what should be done. If in any of these proposals this suggestion was made that the membership of the court be increased from seven to nine, it never came under my observation. Who is complaining? Did any member of this Convention when he came here have it in his mind that the membership of the court should be increased? It was not one of the questions that was agitated by the people which led to the calling of this Convention. The Appellate Court was discussed, the Circuit Courts were discussed but not one word anywhere from any source so far as I am advised in regard to changing the membership of the Su-

preme Court. Now the gentleman said it must be made a constitutional question, and arbitrarily by this inference one which we are to submit to the people. We must give that part of the State three members of the court, take it out of the hands of the legislature, when all our districts, senatorial, congressional, judicial, Circuit Court and Supreme Court districts are all under the influence and under the direction of the General Assembly. Why then is it deemed necessary to take this out of the hands of the General Assembly? It could easily be fixed in the Constitution by a slight amendment and by saying that the County of Cook might be divided into districts and then leave it for the General Assembly to say out of what territory the supreme judicial district shall be made. Now those wise old heads that framed the Constitution of 1870, saw clearly enough the importance and superiority of the plan to divide the State into different judicial districts. Illinois is a large State and it often happens that lawyers have to meet with individual members of the court in chambers, and by this it renders it unnecessary for a lawyer living in Cairo to go all of the way to Duluth or Chicago, and that is one reason. Another reason and a better reason is this, that there may be a great public agitation in this State where public minds in some section or quarter of the State become inflamed, and it is often said as I have heard it, that cases are sometimes tried on the streets before they are tried in court. That is frequently said, and that the feeling of the people, not feeling for the prejudices of the masses, sometimes reaches the bench, now you place arbitrarily in the City of Chicago three members of that great body, we know what has happened there, and nobody can tell what will happen in the future, and you bring three members of the court of final jurisdiction in our State under that one district, and there may be some things that may arise and who can tell what will be the result? It is not wise. It is not healthy. Now without any amendment to the present provision of the Constitution at all, a part of the evils complained of here can be easily remedied. The judicial districts down State can be enlarged and extended northward to include Lake county, DuPage county, Will county and Kankakee county. Now all four of them are included in the seventh district along with Cook county, and leave Cook county as one district, and the Constitution need not be amended at all, and I say here in all seriousness and earnestness without prejudice, that I believe that is all we can safely entrust to a single city. Now Chicago has been very successful in securing constitutional amendments. They procured a constitutional amendment taking away from the Governor of the State the right to appoint the justices of the peace, and if they need a constitutional amendment—if I mistake not they had a constitutional amendment which affected the parks of that great city and really I don't know whether the governor appoints the park commissioners or not—if they had really decided that there was any great need for it, if there was any great evil to be corrected, they would have been speedy in making an application to the General Assembly for a constitutional amendment. None has been made.

Mr. MILLER (Cook). Would you object to seven judges elected at large?

Mr. FIFER (McLean). I would most assuredly for the reasons I have stated. Now I may state without impropriety—

Mr. MILLER (Cook). What is your reason for that?

Mr. FIFER (McLean). I just stated it, that there may be in some sections of the State, more likely in Chicago than any other section, where the people are aroused on some great question,—we are all human, we are not superior to prejudice and excitement—and I say that three judges should not come from a single section of the state within the narrow confines and limits of one city or one county. The object, the main object, the best object, in electing the judges from districts scattered over the State was to avoid those difficulties. Now I may cite possibly without impropriety the murder case that arose over here in Peoria, and you have all read about it. After that unfortunate occurrence, a member of the Supreme bench was elected from that county. He had been on the Circuit bench,

and an affidavit had been made in the case for a change of venue, alleging prejudice in part, and so he declined and properly so to take any part in the consideration of the case when it was before the Supreme Court. Instances of that kind, and other instances may be named, even greater instances of prejudice as to the rights of people in the City of Chicago, and three members are altogether too many to be brought under an influence of that kind. Now this Constitution as it stands, or the proposal contained in the minority report, as I understand the minority report, will allow the General Assembly full control to fix every supreme judiciary district in the State of Illinois, and they can push these districts up northward and include these outlying counties that I have named, and they can erect the County of Cook into a single district and that ought to satisfy you.

Now, my friend, the Judge, made some criticism on the prejudices of the members down State as to why we would do so and so. It did not come in very good grace after we had just passed the separate government, the home government for the County of Cook. I have no prejudice against that section of the State. I have voted and expect to vote for it again, but reserve the right to change my opinion for good and proper reasons. I did so with considerable misgivings, and I have those misgivings still, but I wish you well, and like the immemorable Rip Van Winkle "may you live long and prosper," but I fear you have drawn a white elephant and you will find it hard to carry in the future. You have to carry him and not us, and so you will have to take the responsibility. Now we came here, and we heard no general demand for the increase of the number of judges of the Supreme Court of this State. When the judges were appealed to they gave the information that they could better work with seven members than they could with nine, and thought it unwise to increase the membership of that body. Now then let us be true to our convictions as to what is best, not for Chicago, St. Louis or Cairo, but for all the great cities of Illinois, and in the light of fifty years experience, this system has worked well, and when there is no general demand for it we ought to let well enough alone.

Mr. TRAUTMANN (St. Clair). As a down State man, since the fear you have expressed, Governor, about Cook county, do you really think you ought to give them one member, whether or not your statements are true, do you think we are safe in giving them one member of the Supreme Court?

Mr. FIFER (McLean). Every man should decide that for himself.

Mr. TRAUTMANN (St. Clair). I have listened to your argument, and if your argument is true, I have my doubts as to whether or not you ought to give them one member.

Mr. FIFER (McLean). No, that don't follow, if you want to give them all seven that is your business.

Mr. TRAUTMANN (St. Clair). No, I was wondering whether we should give them any.

Mr. FIFER (McLean). Do you think I am not giving them any?

Mr. TRAUTMANN (St. Clair). Since hearing your argument I have doubted as to whether we should.

Mr. FIFER (McLean). Have you any idea of voting not to give them any at all?

Mr. TRAUTMANN (St. Clair). Don't you think they and the State of Illinois would be better off without any?

Mr. FIFER (McLean). I did not refer to the home rule of Chicago as bearing upon this question of judicial representation other than answer the question—well, I will hardly say insinuation, but the inference—that the down State has been unkind and ungenerous to the City of Chicago. That was the reason I alluded to it, as an off-set to what my friend from Cook county had said, not basing it as an argument as to why they should or should not have one or seven members of the Supreme Court from Chicago. Now, how many are you in favor of?

Mr. TRAUTMANN (St. Clair). I am in favor of increasing the Supreme Court from seven to nine members and creating an extra district in

the State of Illinois of the counties of Lake, DuPage, Will, Kankakee and Cook outside of Chicago, and then giving Chicago two.

Mr. FIFER (McLean). By the Constitution?

Mr. TRAUTMANN (St. Clair). Yes, the same as you would do by the Constitution giving Cook county one member because with the provision in the present Constitution and with the provision suggested by you, if we amend the present section allowing the legislature to apportion the State, you still limit the legislature to one member from Cook county, and under the same line of reasoning I am in favor of increasing it to nine members and giving the City of Chicago, not the County of Cook, but the City of Chicago two members.

Mr. FIFER (McLean). If the Constitution remains as it is there is no limitation whatever on the General Assembly.

Mr. TRAUTMANN (St. Clair). I beg to differ with you, Governor, the Constitution says now, as you suggested it should be changed, that the legislature cannot cut up a county, and they cannot give Cook county more than one member, if it was ten million population.

Mr. FIFER (McLean). My construction of the Supreme Court that is true, but I answered that situation sometime ago, in my brief remark that in my judgment no city, I don't care how large it is, should ever have one member of the Supreme Court, and to carry out the original plan adopted by the framers of the present Constitution those judges should be scattered over the State, and if any such objection should rise, or prejudice, where the people might equally be divided, that the majority of the judges would be removed from influence of that sort.

Mr. MACK (Hancock). I move you, Mr. Chairman, that we now recess until two o'clock.

Whereupon a recess was taken until two o'clock P. M. Tuesday, November 30, 1920.

2:00 O'CLOCK P. M.

Committee of the Whole met pursuant to recess.

CHAIRMAN DEYOUNG. The committee will please come to order. Section 5 of proposal number 384, gentlemen, is under discussion. Does any member of the committee desire to be heard?

Mr. KERRICK (McLean). Mr. Chairman, I won't delay the close of the debate long, but I have listened with a great deal of interest to this discussion on both sides. I have tried to disabuse myself of anything but the evidence, the uncontroverted facts, leaving theories out of sight. The uncontroverted facts are something like these, that we have a court composed of seven judges, whose work has brought to them the reputation of being at the very forefront of the Supreme Courts of the 48 states of the Union, and in one respect the leader of all, that is in the dispatch of business presented to them. They have made no complaint of the need of additional assistants. On the contrary, they have presented to us evidence to the effect that they can do the work, that they are glad to do the work, and that they need no additional help; and, furthermore, that in all probability the addition to their number would, instead of enhancing the value of their work, make it less valuable.

Now, that evidence is before us. We stand in relation to that court as employers, they as servants in their relation to us. There is no business man here who if he had seven men employed to do some particular work, whose work was entirely satisfactory to him, and was looked upon as a model by others who were having such work done, and whose employees were entirely satisfied with the job and wanted no assistants, and wanted no additional compensation, if sitting as a jury we would make up our minds in a very short time to make no change. I cannot look at this situation otherwise than such a situation as I have just supposed. For those reasons I shall be opposed to increasing the number of judges of our Supreme Court.

Mr. DUPUY (Cook). Mr. Chairman, the motion about to be put will be on the substitution of the minority for the majority report. What I have to offer will not be properly an amendment to the minority report, but I wish to give notice that I shall offer this a little later as an amendment to the majority report if the opportunity presents itself. It is something that I think will make the situation more suitable to the down State members, and it will provide that at least one of the judges in the seventh district shall come from the territory outside of the City of Chicago, so that of the three judges to be elected in the seventh district, at least one of them must come from the territory outside of the City of Chicago.

We have in that district the counties of Lake, DuPage, Will and Kankakee, and a large part of the territory taking in the remainder of Cook county outside of Chicago with approximately 600,000 population. It will be nearly as populous as any district in the State of Illinois. It will present as high a grade of voters as any territory in the State of Illinois, an agricultural community, intelligent, conservative people, and there is no reason in the world to suppose that the justice who may be elected from that territory outside of the city would not measure up with any justice from any other section of the State.

So that if this pending motion should not carry, as probably it will not, and the majority report comes before us for action, I shall ask leave to offer this amendment which I think will make it still more suitable to those who are perhaps now disposed not to accept it, and remove an objection that might possibly reasonably be made.

Mr. FIFER (McLean). Mr. Chairman, I would like to ask the gentleman a question. I understand then that there would be one district in the State which would be constitutional, that is, its limits would be fixed by the Constitution under your amendment, is that correct?

Mr. DUPUY (Cook). I suppose that is the effect of it.

Mr. FIFER (McLean). And all the rest of the districts would be subject to be redistricted at stated times by the General Assembly?

Mr. DUPUY (Cook). I believe that is so. May I ask a question in return? Is there any objection to that?

Mr. FIFER (McLean). I am just trying to straighten it out if I can and get before the members your views and its effect should it be adopted. Wouldn't it be far better to leave this whole matter in the hands of the General Assembly? When the judicial circuits are redistricted, it is done by the General Assembly. They say of what counties it shall be composed. When it comes to the senatorial districts, it is the same, and the congressional district, and I don't see any good reason why this should be any exception to the general rule.

Mr. DUPUY (Cook). Mr. Chairman, I see a very good reason why this should be as is now proposed. The legislature will be composed largely of down State members if the present plans, which I suspect are going to carry, go through. You will be in the hands of your friends when it comes to redistricting down State districts, and I think, as has been said here so often this morning that population, business interests, the number of people living in a given community, should have something to do with their representation on the Supreme Court. I believe that those things, rather than acres of ground, ought to be a consideration, and this guarantees to Cook county much less than it is rightly entitled to, but it does provide some guarantee in regard to what its representation shall be on the Supreme Court bench.

Now, it seems to us that nothing can be added to this by discussing and talking about it. Half of the population of the State, and only at the very most two judges, under this proposal, from the City of Chicago. We never have sent down to the Supreme Court men that were not worthy to sit there. No man in this Convention will claim that. It is not likely that we will do so in the future, but if the worst came to the worst, the worst expectation that you ever will realize, there would only be two men from the City of Chicago on a bench of nine under this proposal. I hardly see

how they could control the decisions of the court or work havoc with the proper discharge of the duties of that court.

Mr. FIFER (McLean). One more question. The arrangement as it now is has worked well, hasn't it?

Mr. DUPUY (Cook). Why, Governor, it is useless for us to discuss that with you. The present court was made for a little population not as big as Cook county now contains.

Mr. FIFER (McLean). Yes, but that is not answering my question. There is no valid objection to the court as it now stands, is there, as a court?

Mr. DUPUY (Cook). I think so.

Mr. FIFER (McLean). Outside of the representation that you claim for Cook county, there is no objection to their work, is there?

Mr. DUPUY (Cook). None that I know of.

Mr. FIFER (McLean). Now, they say that they can continue that work if the court remains the same as it is, seven members. They say they are up with the work, and that an increase of the number would be a disadvantage instead of being an advantage. Now then, there is nothing left except the gratification of the people in Chicago and vicinity to the arrangement, is there?

Mr. DUPUY (Cook). Yes, there is, there is much more than that involved. Let me tell you what I think. I think it is so fundamentally wrong, so opposed to the plainest considerations of justice and equity and right that you are implanting in the minds of the vast population of the City of Chicago a feeling that will greatly increase their lack of respect for the court, it will suggest lack of obedience to law or respect for law if we feel that we are not living under a democratic form of government fashioned on the principles that have prevailed from the beginning, that is majority rule or something approximating that. We are falling far short of it if we get all we are asking for here, and I think that the down State people ought to be willing, at least, to concede all that is asked here in that regard. I conceive no good reason to the contrary, and respectfully express the hope that this substitution will not be passed.

Mr. FJFER (McLean). Mr. Chairman, I respectfully say to the gentleman that I should vote for his amendment most cheerfully and graciously if it was not for the fact that I believe it would injure the efficiency of the present Supreme Court as it is, rather than to increase its efficiency.

Mr. LINDLY (Bond). I would like to ask the gentleman from McLean a question. He says that we should not limit this, nor fix a district which the judges should be elected from, that it should be left to the legislature. I would like to ask him what kind of a position he is going to be in when he wants to limit Chicago in the legislature, if they would not say to him, "Will the legislature redistrict the State without us having anything to say about it?"

Mr. FIFER (McLean). Oh, the legislature is left the power to redistrict the State just the same as ever. It limits the number now that each district shall have, and always has limited it.

Mr. MACK (Hancock). Mr. Chairman, in this matter I do not expect to make a speech, and did not want to say anything, but being a member of this committee of the minority, signing the report, they have insisted that I at least say what I think about it in as few words as possible; but two things occur to me as being essential in addition to what has already been said.

The first proposition which appears perfectly plain to my mind is this, that notwithstanding the magnificent presentation by the gentleman from Cook who is now presiding, that I feel confident beyond any reasonable doubt that we have left this matter in the hands of the legislature. I feel also along the lines suggested by the eminent gentleman from McLean county, that if there exists here a particle of doubt about having left that question entirely in the hands of the legislature for the future, that I am satisfied that you, as well as I, would consent to such an amendment as will do that.

Now, Mr. Chairman, that being the case, I insist that any plan that is worked out should particularly in the future leave this matter in the hands of the legislature. Section 42, as it is prepared, I believe does in its language do that, but I am willing to yield to the suggestion of the honorable member from Cook now presiding, and say that if he has any doubt about that, that I am perfectly willing that that provision should be amended so that there can be no question about it, and no doubt in the world that the legislature, as it has had in the past, shall have in the future the absolute and unqualified right to control this matter.

Another matter, Mr. Chairman, concerning which I wish to make a suggestion, and that is this: When this matter was brought before us, the only presentation made of this, and the only reason why this small territory situated in the northeast corner of the State along the lake should be assigned three judges out of nine, and why two additional judges should be added to the present incumbency of the Supreme Court bench, is what? It is in carrying out that which seems to me, gentlemen, as has been well stated, to be a matter which is not founded upon any sound principles either of statesmanship or the making up of courts. I am confident that when these gentlemen come to this body of men and hold up this map pointing out the small territory in the northeast corner of the State along the lake, and say that that territory should be represented in the Supreme Court, that they are asking something that has never existed in the State of Illinois from its foundation a hundred years and more back, that there never has been a time when any portion of the State of Illinois has ever asked that it have representation specifically upon the Supreme bench. If I am wrong, the chairman may correct me, when I say that these districts, as they have been formed, as they have existed for years and years, are based purely, absolutely and unqualifiedly upon the matter of convenience, and that never before, as I understand, in the State of Illinois has it been insisted in any deliberative body that any portion of the great State of Illinois should be represented upon the Supreme bench.

To me the matter of representation on the highest judicial body in the great State of Illinois, of six and a half million people is a matter of absolute impossibility. I hold in my hand papers given by the gentleman from Cook, in which he says that Cook county now has, with a territory composing the seventh district, over 3,100,000 people, and the down State 3,050,000 people, and he says that this vast number of people in this small territory should be represented, that there should be put upon the Supreme bench three men to represent those people. I say to you, Mr. Chairman and gentlemen of this Convention, if the hour ever comes when anybody is put upon the Supreme bench to represent any portion of the great State of Illinois, that a tremendous mistake will be made in the fundamental principles upon which every court in the land is founded, and upon which the Supreme Court of the United States was founded.

And now, following a line suggested to me by a member of this Convention, I want to ask of you, sir, and of this Convention, when the Constitution of the United States was formed and the Supreme Court of the United States was formed, was there any distinction, was there any reservation of a right to represent any territory? Wasn't that great body of men made up of men to be selected by the President, of men throughout the whole great union itself, and wasn't the possibility of Rhode Island having a member just the same as New York having a member, and wasn't numbers absolutely lost sight of?

Therefore, keeping my promise to this Convention and to the chairman not to make a speech, I want to say in closing that when we find ourselves presented with something which is a condition which confronts us, a condition which cannot be changed, and a condition that does not grow out of the fact that you live in that territory and we do not, and does not grow out of the fact that the people living there now are the people that will live there, but grows apparently out of the fact that whenever in any small territory a mighty people is found and a great city grows up there, coming now to be the second city in the union and following close upon

the heels of being one of the third or fourth cities in the world—that the conditions found there cannot be gotten away from, that cannot be anything but confronted, and we must look it in the face and ask what that condition is.

And, therefore, I say the height of folly, the height of danger in making up the Supreme Court of Illinois would be unreasonable to suggest, that even the people of the seventh district should be represented upon the Supreme bench of the State of Illinois. I have always understood that the Supreme Court of the State of Illinois represented absolute justice, equality and fairness among men. I had always understood that the matter of selection by districts was a mere matter of convenience. I had always understood that the men when they sat down to render those decisions represented no county, no district, no people, but the majestic will of the people of the State of Illinois acting along with justice, fairness and equality in law.

Therefore, I want to say, Mr. Chairman, in closing that I believe that it is essentially radical and absolutely wrong to insist that any people, no matter how great their number, should be represented upon the Supreme bench of the State of Illinois, and I want to say to you, gentlemen, that we have met in this Convention something that is a condition, and must be confronted, and cannot be gotten away from and must be solved before we leave this Convention, and that is a condition growing out of the congestion in the northeast corner of this State with a population now running fast toward more than half of the population of the great State of Illinois. That question I hope you gentlemen will believe we are trying to solve as must pertain to justice, equity and decency, but there is a condition existing there and that condition must be confronted, and you know, coming from that territory, as well as I, who do not come from that territory, that when it comes to a presentation upon any bench in the State of Illinois of men to represent that particular district, that you are getting on extremely dangerous grounds.

Therefore, I want to say in conclusion that as a member of the committee who signed this minority report, I regret extremely that it was necessary to separate upon any proposition in this report, but upon this we have separated in a spirit of friendship, and leaving this matter to the Convention, believing and knowing that this Convention will do absolutely the right thing, and into the hands of this Convention I commit this proposition calling your attention to the three-fold matters involved: First, that we leave this matter with the legislature, and if we do not, section 42 may be amended so that it does; second, that there must not be and cannot be any representation of any particular body; and, third, when it comes to that mighty population out yonder, that you must hesitate before you allow them to exercise that weight upon the Supreme bench of the State of Illinois which might be determinative of the affairs of the entire State. If it is left to the legislature, there is nothing to fear, but a radical departure from that might bring about a condition upon the Supreme bench of the State of Illinois which would be serious, indeed.

Mr. DUPU (Cook). Will the gentleman yield to a question? I understood you to argue that population is not a factor which you consider.

Mr. MACK (Hancock). True.

Mr. DUPUY (Cook). Then you would be satisfied to vote in this Convention for a Constitution for the Supreme Court that provided no member at all from Cook county, leaving her three millions without any member on the Supreme Court?

Mr. MACK (Hancock). No, that would be contrary to policy.

Mr. DUPUY (Cook). That would be the logical conclusion of disregarding population, and isn't that the inevitable conclusion that you must come to if you apply that logic, saying that population has nothing to do with it?

Mr. MACK (Hancock). Let me answer the gentleman's question by saying this, what you have suggested would be a departure from the principle which has been followed for fifty years of redistricting the State so that each portion of the State should have sent from that district a member to

the Supreme Court bench, not basing it upon population, but making it a matter of convenience.

Mr. MILLER (Cook). As I understood you to say, population is not a factor.

Mr. MACK (Hancock). Not of itself, necessarily.

Mr. MILLER (Cook). I was wondering why it was that in this report it was provided that the rest of the State should be distributed according to population, as nearly as may be?

Mr. GREEN (Champaign). Where is that provided?

Mr. MILLER (Cook). I see it is in that report.

Mr. GREEN (Champaign). Do you refer to section 42?

Mr. MILLER (Cook). Yes, 42. "But such alteration shall only be made as nearly as county boundaries will allow, upon the basis of equality of population." I was wondering why that was put in.

Mr. MACK (Hancock). Let me say this to the gentleman, that if you come to make districts throughout the State of Illinois, it would be natural and reasonable that those districts under all circumstances should be fixed by numbers. They have been so fixed for years.

Mr. MILLER (Cook). Why?

Mr. MACK (Hancock). Simply as a matter of convenience in electing members.

Mr. MILLER (Cook). Why not make it acres?

Mr. MACK (Hancock). Simply because it was necessary to find some manner to elect these judges instead of electing them from the State at large.

Mr. MILLER (Cook). Wouldn't it be just as easy to elect them by acres as by numbers?

Mr. MACK (Hancock). To my notion, no.

Mr. MILLER (Cook). What would be the difficulty of it?

Mr. MACK (Hancock). Because the rule followed in Illinois for a great many years has been simply the matter of convenience in separating certain districts, so that men might be elected from those districts as distinguished from election in the State at large, and that was the reason for that method that has been followed, but now a new condition is presented by a congested population in one portion of the State, which, as I have said, presents a condition that requires a new remedy entirely and a new adjustment.

Mr. MILLER (Cook). But, Judge, if you made it by acres, of course, acres are just as easy to count as people, aren't they, and if you make it by acres it would not change, and you will not have the trouble of cutting it up every once in a while as you will have here, isn't that true?

Mr. MACK (Hancock). I think the gentleman understands that up to this time it has been necessary to find some method of electing members, and this method has been elected. I think you all understand that the issue up today is the question of an enlarged population in a small territory.

Mr. MILLER (Cook). I was suggesting a better method, Judge, in view of the fact that population has nothing to do with it. I was asking if you did not think that would be better because it was permanent and more easy to manage, and you would not have to redistrict?

Mr. DUPUY (Cook). Mr. Chairman, to refresh our recollections, let me refer to the provisions of the present Constitution. Section 5 of the judiciary article of the Constitution of 1870 in part reads as follows:

"The boundaries of the districts may be changed at the session of the General Assembly next preceding the election of judges therein and at no other time, but whenever such alteration shall be made, the same shall be upon the rule of equality of population as nearly as county boundaries will allow, and the district shall be composed of contiguous counties or as nearly compact form as circumstances will admit."

Mr. MACK (Hancock). Isn't that practically the language of the present Constitution?

Mr. DUPUY (Cook). Doesn't this make population a prime factor in determining the districts? Could English language make it any plainer?

"But whenever any such alteration shall be made the same shall be upon the rule of equality of population as nearly as county boundaries will allow."

Now, we have heard from the gentleman last speaking that this is a new situation, that we have it before us for the first time. They had the same question before them in 1870, and they followed the usual, ordinary, evident method of laying out districts. It seems so plain that that was what they did and put into the Constitution, under which we have lived for 50 years and are now living, that there is no good reason for making a departure from it. We are willing, or I will at least concede, that a very great departure may be made from it in the direction of limiting Cook county and limiting Chicago, but to stand up in this Convention and argue to this group of delegates here assembled representing the State of Illinois that population is not a factor in determining an important question of this kind is something that passes my comprehension.

Mr. GEE (Lawrence). Mr. Chairman, I want to say a few words because I signed this minority report. I signed that report with a reservation, to make up my mind as the thing came along. One of the main reasons that I opposed the majority report in regard to this subject of increasing the number of the Supreme Court judges to nine was because I thought it was a little bit dangerous to allow the great County of Cook, which doubtless every time the selection was made would select the three judges, and from the observations I have been able to make, and the conclusions drawn of my own, I thought we could not afford to take the risk, but I am now informed reliably, as I take it, that no more than two of the additional judges will ever come from the County of Cook.

As you all know, in the seventh district there are four counties outside of Cook. I cannot get my mind away from the fact that population is concerned. I cannot get my mind away from the fact that business to be done in the courts is a matter of concern, and the population and the amount of the business ought to be thought about. I think it was a wise provision in the Constitution of 1870 that the districts of the State should run from the first to the seventh. I have no doubt in my own mind that 50 years ago they made more districts than probably was absolutely necessary for efficiency, and they created more judges, perhaps, than was absolutely necessary to do the business, but we are a convention, I hope, with forward looking minds, and we have a right to anticipate a half a century ahead, and judging the future from the past, I am inclined to take the position that our population will increase, the business of the courts will increase, and thereby we need what we all think will assume that we most need, efficient people in our Supreme Court. It is the last resort to protect all that we have.

I want to give great credit to the Supreme Court for its efficiency as it now exists, but I cannot understand why nine men could be less efficient than seven men. It has been said here by a worthy gentleman on the floor this morning that there is no magic in numbers. If there is any magic in figures, certainly nine has it. If, as the vast population increases, the work of the court increases, and new questions increase, it needs new minds, in my opinion. The districting of the State is valuable for this reason also. These judges selected from districts are men who are acquainted with conditions of their districts. A judge coming from an agricultural district knows the needs of agriculture, and the agriculture has something to do with the litigation of the State. The man coming as a judge from a commercial population necessarily knows something about the commercial pursuits of life, and you can take your books and your cold blooded precedents for guides, and yet new questions arise which the mind of the judge must take on something from conditions and observations and the needs of the hour.

We are bound, it seems, hand and foot to precedents as lawyers largely, and yet things come up that seem to have no precedents. It might be a commercial proposition, it might be an agricultural proposition, or any proposition of the numerous pursuits of life, and the man is best able to

solve that question that knows something about it. The man from a purely agricultural district cannot know, it seems to me, with a certainty about a commercial transaction as can a man who comes from that kind of a district, who is cognizant of those things.

Now, I do not think, gentlemen, and I am standing as a down State member of this Constitution, that we have any right to dictate solely to the interests of the northeastern part of our State. They have rights which I am willing here frankly to acknowledge, and with this suggestion that those three men that come from the seventh district can never be consolidated as a unit upon any question that may come before the Supreme Court in the future where partisanship or selfishness might interfere with the logical deductions of the law as to what is right as a judge, knowing that only two of any possible—I do not want to have any one take it that I mean that that possibility will arise, but it might, and we are here to guard the future. The past is done and the present will take care of itself, but we are trying to do something forward looking, for the future.

Now, with this seventh district with three judges, it seems to me nine men could be just as efficient. We have got an old homely expression that two heads are better than one if one is a sheephead, and I cannot see why nine judges cannot be better than seven if they will do the work, and judging the future from the past, they will do the work. One judge said to me that the work largely was a matter of writing opinions. Now, they are keeping up pretty well with the opinion writing, but I suppose that any opinion has the consensus of all the minds of the judges, and that a judge's opinion, as good as it may be, cannot be any less efficient because it is concurred in by the other eight men.

Now, with the limitation that only two of these men in the future can by any possibility be selected by some means that would not be for the best interests of the State, and the other men left out where the other six judges would be, I do not see any leap that we are taking in the future that could do us any harm at all. It don't appear right, gentlemen, that three millions of people, with twice as much litigation, probably, more involved matters all the time, ought to be shelled up with only one man.

Mr. FIFER (McLean). Mr. Chairman, may I ask the gentleman a question? Judge, have you any idea how the outside man in the seventh district would be nominated and elected,—by the whole district?

Mr. GEE (Lawrence). Why, I assume the whole district will elect all three of the men.

Mr. FIFER (McLean). Promiscuously. Now then, wouldn't it be easy for the City of Chicago after selecting their own two men which you would give them, to select another man in the outlying territory to their liking, and wouldn't the man that was elected by them, because they would be in the majority, look in all human probability to his future election, and it would be no better than if you took him from the City of Chicago itself?

Mr. GEE (Lawrence). Taking the human equation into view, I will assume that the four counties in this seventh district will see that their selection will be massed by their electorate for a man outside. I think I can safely assume that from past experience in those matters. There is always about enough dissension in the other part that would carry that over, in my opinion, and so I think we could safely assume that the Constitution providing that one man shall be outside of Cook county, that the four counties would solidify themselves for that one man and doubtless would make the selection.

Mr. FIFER (McLean). Judge, wouldn't it be better to avoid the difficulty suggested in my question, if your suggestion prevails, to provide that Cook county could be erected into one district, and that it should have two members of the bench, and then create another district outside of the City of Chicago, and disconnected entirely from Chicago.

Mr. GEE (Lawrence). I will say to the delegate from McLean that that was the view I had, to make nine districts, and take the four counties and make a district, but I am told that population interferes with that idea.

Mr. FIFER (McLean). Well then, the idea is that population wants to elect two from the City of Chicago and help to elect the one outside, which would give them in fact three judges, the very thing, Judge, that you are seeking to avoid.

Mr. GEE (Lawrence). We have got to trust somebody. I am willing to take the luck of trusting these four counties outside of Cook county to get the one man.

Mr. McEWEN (Cook). Mr. Chairman, if it were not that I wish to make a statement regarding my understanding as to how the Supreme Court came into this matter, I would be content to rest the majority report upon the argument that has been so ably presented, but for fear that my silence might be construed into acquiescence in the statements that were made here this morning in that particular, I wish to state for the record that, according to my understanding of the facts, the Supreme Court and the judges thereof first became interested in this committee's deliberation and report on the questions of residence at Springfield, and the continuous sessions of court, and there was some informal discussion between members of the court and members of the committee. Later a letter was written by a member of the Supreme Court to the committee, followed by a letter from another member, objecting to the increase or proposed increase from seven to nine.

I am not aware, and I think the gentleman from Champaign is in error, that the chairman of that committee ever requested an audience between the committee or any members thereof and any members of the Supreme Court. It was stated in the committee meeting on one occasion when I was present that certain members of the Supreme Court had invited the representatives of the committee from outside of Cook county to meet with them over in the Supreme Court building on the evening of that day, and I had understood that there was such a meeting. I have never requested an audience, never heard of an audience being requested, never have arranged an audience and do not know if the Supreme Court judges wish one thing or another done, except as it comes to me through hearsay.

The first judge to object to the nine judges was Judge Cartwright, and he made various arguments which he has since amplified, according to his letters which were read here this morning, and all of the judges seem to have centered on the thought that seven is the right number for a conference, and when you get more than seven, you become cumbersome for conference purposes, and some of the judges argue that if you do not have any too much business for seven to transact, seven is the best number, and if you had too much business for seven, of course, you would either have to increase the number, or cut down the business, and with the power in the Supreme Court which we have given to them of limiting the jurisdiction of cases to the Appellate Court they no doubt believe that they can so limit appeals and limit the volume of business as that seven can properly function.

Then they say it divides the responsibility. That if you have nine, that in some way or other individuality becomes lost in the conferences or in the writing of opinions and in the work of the court, and therefore it is an undesirable number. Now, to me justice is never anything more than an average. Judges will make mistakes, the trial courts will decide to the best of their understanding. An appeal will be taken, and the decision will be reviewed in the Appellate Court; probably one-third on an average will be reversed of all the cases that go there, and of all the cases that go on to the Supreme Court, another third is liable to fall, and I have never looked up the figures, but I apprehend if any of those cases that have gone from the Supreme Court of Illinois or any other Supreme Court to the Supreme Court of the United States, we would find still further reversals. So that justice must be considered, and the courts of jurisprudence must be considered from the view of a period of time and an average.

We know the Supreme Court is the most powerful body in this State, powerful because it has the passing upon what is the law, and we as lawyers, and some possibly who are not members of the bar, can understand

that a Supreme Court has the responsibility of saying what propositions shall apply to that case, because if one proposition is applied, one conclusion results; if another is applied, another conclusion results. So that in the selection and application of the law, the Supreme Court discharges a great and final function in the law. The Supreme Court has the power, too, when it sees that a particular proposition does not fit in the changing times and changing conditions, it has the power and has done it many times, to modify, and has made exceptions until we have seen so many changes in the course of years that men say the courts judicially legislate. I do not pass that upon a court as a criticism. A court that cannot be flexible, that cannot adjust to new conditions, will not be able to do justice under the new conditions, and a certain amount of flexibility is necessary in the law, and the Supreme Court has the responsibility of determining when that flexibility shall be applied. So then, they have a great function not only in the particular case, but a greater function than any body politic in the State in determining what shall be the law of the State, or what is the law of the State.

It seems to me that judges of the Supreme Court get to look upon that as their highest purpose on the bench. In no other way can I explain the language of one of the letters which was read here this morning, which said that a great deal of their time was spent in consideration of petty ordinances of villages, and that the time of the court was wasted in such cases. I would imagine that a layman listening to that would feel a distinct impression of shame that there should be a classification made by one of the greatest if not the greatest, judge that we have ever produced in this State upon a Supreme bench, that that man occupying that high position should make such a classification, because to the litigant whose case is before the court, whether it be great or small in the eyes of that court, it is great to him. To him it represents his great interest, and to him it represents his heart throbs. I don't know how you are going to determine as between man and man, and between case and case, which is the great case. The little case, involving a few dollars often involves a principle greater than the case that involves tens or hundreds of dollars.

Mr. FIFER (McLean). May I ask the gentleman a question? Don't the statutes of this State themselves classify cases to the extent that all cases involving a freehold go to the Supreme Court of the State?

Mr. McEWEN (Cook). It classifies cases for purposes of appeal.

Mr. FIFER (McLean). Because of its magnitude and importance.

Mr. McEWEN (Cook). Because of the importance of the principle involved, I suppose.

Mr. FIFER (McLean). Then again there are other cases where the amount involved fixes the right of the litigant to go from the Appellate to the Supreme Court, so there is really a classification made by the General Assembly of the State, and has existed ever since the present Constitution at least, if not before. Isn't it a little bit unfair to criticize the Supreme Court when they designate certain cases as being petty and ought to be possibly finally determined before they reach the Supreme Court, that they are not of that magnitude that they ought to be considered by the higher court?

Mr. McEWEN (Cook). Well, Governor Fifer, you misunderstand me if you construct any of my remarks as criticising the Supreme Court. I am endeavoring to get at the functions of the Supreme Court in order that I may ultimately come to the subject of whether three million people on the lake or anywhere else shall be left out of consideration in representation upon such a bench.

Mr. FIFER (McLean). I understood you to refer to what the Supreme Court or one member of it said in his letter about petty cases.

Mr. McEWEN (Cook). I did, and I was deducing from that because he undertook to denominate some litigation involving a village ordinance as petty, that therefore it was not important. I apprehend that a village ordinance is just as important to the village or the litigant as an ordinance involving the traction franchise for the surface lines of Chicago.

Mr FIFER (McLean). Isn't the plain meaning of what the Judge wrote that those smaller cases ought to be determined finally in the Appellate Court?

Mr. McEWEN (Cook). No. The plain meaning of it is that the gentleman thought that seven was the proper sacred number, the biblical number, and that if the business was too large, it should be reduced to the capacity of seven men, and that he would begin by leaving out what he called petty cases, so that the time of the judges would not be wasted on such cases.

There is a great deal of difference as to whether the Supreme Court should review more cases or less cases, and it was manifested quite considerably here in the debate on another section of the majority report permitting the Supreme Court to make rules which would make the final jurisdiction of the Appellate Court; and I doubt whether the minds of this Convention are at rest on this subject at this moment, notwithstanding a majority of the vote then taken was in favor of granting that power, but the application which I make of that is that a judge gets to looking upon his functions of declaring the law as being greater than the individual principle in the particular case, and so he believes in limiting all those smaller cases, whether he makes the classification in one way or another. He speaks of these compensation cases. What could be better than those appeals should go to the Supreme Court at least for a term of years, until the law could be declared, could be worked out and authoritatively established, and yet I apprehend that that composes a large share of the work of the Supreme Court.

He states that we all acquaint him of the slightest interests or prejudice in the matter. I say that we will. It is not that we are criticising a particular individual. We are looking into the conditions, and when that individual comes to us with his statement, he submits that statement to discussion. He knows it will be submitted to this Convention. Therefore, being before this Convention, and appeals having been made here that we should suspend our own judgment and rely upon the judgment of the men in the Supreme Court, I think it is entirely proper that we should analyze their statements and their attitude of mind regarding the laws and regarding the duties which they perform as judges.

Now, there was a supplemental letter written by Judge Cartwright. Now, when anybody talks about the City of Chicago having a certain lot of evil influences, I want to say that in Chicago they do things just the same as you do down in the country, and when you select judges some political organization takes an active part in the naming of those judges and in securing their election. And we are just as anxious to get good judges as you are down in the country, and we don't like the idea of your pointing at us and trying to put us in a class by ourselves in the matter of good government, or in any other particular involving citizenship. These gentlemen who write letters for seven judges, would be nominated and elected in the same way that we may nominate and elect our judges. We want to get a man in that district that represents fidelity to the law, and all the qualities that make for good judges. They are all supported by political organizations. That is the American system, and it is not to be disturbed because it involves a political organization.

Later Judge Cartwright said, "It ought to be sufficient to defeat the scheme that it is contrary to the whole plan of the creation of the court, that no locality or part of the State shall have more than one judge." If that be true, if that is the policy, then it is a mere matter of changing the boundaries of the districts. I apprehend that if we sought to change the boundaries of the districts throughout the State and revise them entirely on the basis, we will say, of six districts, we would find strenuous opposition from those localities or those individuals that would be unduly and disagreeably affected.

"The districts are not and never have been equal or nearly so in population, and the court is in no sense representative either of numbers or the amount of business, either civil or resulting from a prevalence of crime in any part of the State."

Personally, I believe a good appointive system is the best possible system for selecting judges, but I know that the popular sentiment is afraid of the creation of a judicial class by means of appointment, and therefore the average man is against the appointment of judges because he says we don't want them to get away from the people and from the understanding and influence of the people. We don't want them to get the notion that they are supreme. So your average man says he will have nothing of an appointive system. If it be true that the elective system is proper, and the people seem to have approved that in this State, and that the Supreme Court should be elected, then there is no way under heaven by which you can make a fair selection of the Supreme Court that is not based upon people. There isn't any answer to the argument that was made here by the distinguished gentleman from Cook who now occupies the chair, that it is an absurdity that over one-half of this State shall be placed in the position of having one member on the Supreme Court. There is no man that I can perceive of that would say that was fair, and we have built this government upon fairness and if it continues, it must stand upon fair deal and square deal. The people will not tolerate anything that falls short of that, and as long as we strive towards it, we will have a secure government and we will have a secure government just as long as the people are with it, and Supreme Courts, militia or anything else to the contrary, it will not be secure when the great majority of the people quit supporting the government.

Then in one of the lines of this distinguished judge's letter, he said that on objection to three judges from Chicago would be that lawyers of powerful personality and powerful political strength would appear before the court and unduly influence judicial decisions. He says judges are human. Does he mean to say that there are no powerful political personal and financial and business personalities down the State? You have just as good lawyers as we have. You may have lawyers that have not had all the variety of experience, but you have just as good mentalities, just as able men in the courtroom, just as strong and forceful. You have vast interests down the State; you have men that represent great political powers down the State, men who can control nominations not only of the local judge but of the Supreme judge. You have all those powerful personalities, but shall the three from Chicago be cut down for the reason that Chicago has powerful political personalities as lawyers, and down the State has none? I think that is a misapprehension of the facts.

He says that the distinguished judge intended us to draw that conclusion. If he intends to suggest that the judges that we have sent from Chicago in the past had been unduly influenced by powerful personalities, men of strong political force, I cannot believe that. I recall that we have had Judge McAllister, who has left his imprint upon the jurisprudence of this State, both in the Appellate and Supreme bench. I recall that we had Judge Magruder; and I never heard a word in all my 30 years' experience, a breath of suspicion as to his being influenced by any political or personal consideration of powerful lawyers. Our present judge from Chicago, Judge Carter, is a man beyond reproach, indeed. I cannot believe that the distinguished judge who wrote this letter intended such a conclusion to result, and yet that is the argument he makes, and it demonstrates that his argument is fallacious and wrong. It reacts upon his entire position.

Then he says if we are to make districts on that line we would have to have judges representing Peoria, East St. Louis and other cities with a special point of view prevailing there. It is just as much argument to say Peoria controls a district, or that East St. Louis will control a district, if it does not now, and should have a judge because it has its special interest, as to say that Chicago and Cook county shall have but one.

"There is a present object lesson in conditions and the recent election in Chicago which should make any one hesitate in giving more judges to Cook county to be elected by popular vote."

The recent election in Chicago was not so different from the recent election down State. Any man that happened to be on the prevailing ticket was swept in, regardless of his personal qualifications. The men that were

elected in the last election in Chicago have not all taken their seats yet. What they are remains to be seen. No one has said anything which was susceptible of proof or anything beyond the ordinary political discussion that in any way would militate against those men's ability to run office, either in character for honesty or character of the particular services to be rendered, and yet this distinguished gentleman seems to think that there was something discreditable about that election in Chicago.

Would it have been any better if another ticket had been elected, or would you have been warranted in saying it was discreditable if the opposition party had had its ticket elected? Certainly it would not be warranted at this time. There is as good and as efficient administration of offices in Chicago as in other places, as they average throughout the State.

So I feel that these arguments that are made by this gentleman are to be treated according to their worth and merit and not accepted blindly because the man who makes them is a man of long experience, and is entitled to the greatest respect and veneration. If we are to shut our eyes and take the decision of the Supreme Court—and the majority of it is presented here—then I think this whole matter should be referred to the Supreme Court to write such an article as is satisfactory to them, or which they might recommend.

As I said, Mr. Chairman, when I started to make these remarks if it had not been for that particular suggestion that these gentlemen are here as invited advisors, I should have been glad to let the case go without taking your time and the time of this Convention in any discussion of the issue which is presented here. When a man down State says he is going to do something which looks to me unfair, I either conclude that I am wrong or that he don't mean it if he is wrong, because I think he is just as good as I am, and I don't think he claims to be any better. If he would persist in an error, or in a prejudice, I would say "you are doing me wrong, and I resent it, and I am going to contest it." But I will not believe it until he has finally accomplished his purpose. So when they talk about reducing our population and our vast interests to minimize them into a district of one-fifth of what it is by population, I do not believe that you mean it.

There was one thought suggested by Mr. Justice Cartwright that it was absurd that these judges down State did not understand Chicago's position. About two weeks ago I happened to be reading in one of the Supreme Court reports about an elevated case that happened in Chicago, the opinion written by a judge now on the bench. A conductor on an elevated railroad on the north side had stuck his head out to one side of the platform and had been hit by a projecting building, and he sued the company and he got a verdict, and the Supreme Court held that it was not an assumed risk, and also went on to gravely declare that it was the duty of the elevated railroad company to condemn the corner of that building and cut it off, or else run all the cars on a single track by that point. Now, it struck me that that gentleman that wrote that opinion could not have considered that anywhere from three-quarters of a million to a million people would ride by that corner. It struck me that he was looking at that elevated railroad with its capacity of carrying more than a million a day, with the view and the vision of a man who saw the old fashioned horse cars in his own home town. I don't know that we need a man that knows all about Chicago, but we do need a man who knows something of Chicago, and something of its varied interests and various activities. We need a man that knows more of the practical operation of an elevated railroad than that you could operate such a railroad on a single track in the heart of Chicago. And I have no doubt that that judge was a perfectly good man.

So we come right back to this as a question of fairness. We have declared for the elective system. We have declared for districts on the basis of population, and you say that that principle, while it works down the State, don't work across the Cook county line; and personally I cannot understand the principles that are pulled so readily first from one pocket, and then from another pocket, and so forth. The fact is that if it is a judicial system built upon the elective principle, then it must rest upon

the people who vote, and if it rests upon the people who vote, then there should be some proportion of representation when you cut it up into districts, otherwise you should turn it into one entire State matter and let all the people vote for all of the judges. I do not believe that you gentlemen from down State mean it, and until you show that you mean it by the final records of this Convention, I won't believe it, and I will tell everybody that I still have confidence in my fellow man, no matter where he lives.

Mr. DEYOUNG (Cook). Mr. Chairman, I am rather reluctant to prolong this debate, and yet at the same time it has taken such a wide range that perhaps it would be profitable to go back to what it seems to me are some of the aspects of this problem.

It was asserted with much force by a gentleman of recognized ability in this Convention, the gentleman who spoke first in behalf of the minority report, that population was not an element in the selection or election of a judge in the judicial scheme of Illinois under the present Constitution. I am constrained to dissent absolutely from any such a statement as that, because if I consult the provisions of the present Constitution, they seem to me one and all to be uniformly and diametrically opposed to any such conclusion.

The gentlemen of great wisdom and distinguished ability who framed the present Constitution in this city a half century ago were men who understood the problem with which they were dealing. They were men drawn from every quarter of the State. Some of the greatest names in Illinois history graced that Convention. Many walks of life, the leading professions adorned that body, and the contributions which they made are not to be lightly put aside, and almost from the opening sentence to the concluding one, wherever the question of the election of a judge arose, we find from the highest to the lowest court the matter of population at least an important, if not a determining factor.

May I not simply call attention once again to some of these provisions, not at all to be guilty of repetition but so that the matter may be placed in something like symmetrical form, and call your attention to a few of these provisions. The first is with reference to the Supreme Court itself, which you find in the fifth section of article 6 of the present Constitution.

"The boundaries of the districts may be changed at the session of the General Assembly next preceding the election for judges therein, and at no other time, but whenever such alteration shall be made, the same shall be upon the rule of equality of population." These men knew the definition of words, and they used these words for some purpose, not lightly—"shall be made upon the rule of equality of population as nearly as county boundaries will allow. Districts shall be composed of contiguous counties." They had to be of contiguous counties, because judges were to be elected by districts, but the rule of equality of population was invoked.

And what was the situation when this ~~was~~ written in this city more than 50 years ago? The population of Cook county was then a little upwards of 300,000, and if you will observe the districts into which the fathers divided the State for the purpose of electing justices of the Supreme Court, you will find that the men of the Convention by the enumeration of counties in this article divided the State in as nearly equal portions on the basis of population as county boundaries of that day would allow. The seventh district, was composed of the same counties in 1870 that it is at this day, which through this half century has never been enlarged, so far as its boundaries are concerned; they have had practically the same population as the average of the other six districts, and it cannot be said that the framers of the Constitution ignored—no, they not only did not ignore, but they actually invoked the rule of population when they by constitutional fiat itself prescribed the boundaries of these several districts.

Is it confined merely to the creation of districts for the election of judges of the Supreme Court? Oh, not at all. Turn to that court of great importance, the court that disposes of such a great volume of business, in which the great majority of litigants, when they do go into a court, only find themselves in that court alone, because it disposes of much the great ma-

jority of cases, the circuit court of Illinois. What do we find there? We again find it repeated that population is a determining factor in the creation of circuits. Just turn to the language again in the interest of accuracy. We find there, reading now from section 13, section 6 of the present Constitution:

"New circuits may be formed and the boundaries of circuits changed by the General Assembly at its session next preceding the election of circuit court judges, but at no other time."

Here was a limitation, you will observe, that the boundaries of circuits could only be changed once every six years, and that immediately preceding the election which by the Constitution was fixed at a certain definite time, but there is a proviso here; the framers again recognized the existence of inequalities, and even in the Constitution they provided for that: "Provided that the circuits may be equalized or changed at the first session of the General Assembly." The fathers did not wait for six years. They said after this is done once, but it can be done by the General Assembly immediately succeeding the ratification of this Constitution. After that once in six years. Here was equalization to be effected immediately, and an exception was created, and yet lawyers of distinguished ability have asserted in this chamber on this day in this debate that population was not an element and not to be considered in the election of judges.

"The creation, alteration or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one or of two or more contiguous counties, containing a population exceeding 50,000 shall occupy nine months of the year, a separate circuit might be created."

What is the provision with reference to the County of Cook? The County of Cook was created into a separate circuit. It was then, as it is now, the most populous county in the State. It received separate treatment, so far as the constitution of that county into a single circuit was concerned. I need not read the provision which fixes the increase of the number of judges there upon the basis of population exactly, and in your legislation the same thing is reflected. The increase in numbers of justices of the peace is based upon population in townships, and who ever heard of one portion of a township only sparsely populated, to elect all or a majority of the justices as against the more populous portion of the township? Why, you have it running all the way through, from start to finish, and show that that is a determining factor.

Ah, but what some of the judges have said is invoked. Let us see what they said officially. The Supreme Court of the State of Illinois has had something to say upon the question of apportionment. The General Assembly in the year 1903 changed the boundaries of the fourth Supreme judicial district. Let us see what the legislature has to say about this. It read the Constitution of 1870, and I dare say that in the session of 1903, as well as in the sessions that preceded and succeeded that particular session, there were at least a few members of the bar in that body, and some of whom might have had a comparatively slight acquaintance with the provisions of the Constitution, and here is what they had to say in the enactment of that body, which was challenged in this case:

"WHEREAS, The Constitution of this State provides that the boundaries of the districts for the election therein of judges of the Supreme Court may be changed at the session of the General Assembly next preceding the election for judges therein, and at no other time; and

"WHEREAS, There will be held an election for a judge of the Supreme Court in the said fourth Supreme Court district on the first Monday of June, 1903, under the Constitution of the State; and

"WHEREAS, Said fourth Supreme Court district has a less number of inhabitants by more than a hundred thousand, according to the census of 1900, than any other one of the seven districts for the election of supreme judges in the State of Illinois;

"Therefore, be it enacted by the people," etc., "that the boundaries of said fourth Supreme Court district be hereby changed so that after the passage of this act said district shall be composed of the following counties."

I need not read them. They have certain counties added to the fourth district in order to restore as nearly as county boundaries would allow the equality of population which the legislators of that day sought to accomplish.

You remember that this apportionment was challenged by a candidate for Supreme Court justice in that particular district, on the ground that the legislature did not have the power, under the Constitution, to make this apportionment because the other districts that were effected, two or three in number, would not have an election immediately succeeding this session of the General Assembly, and the question came up for the construction of that provision. What did the Supreme Court say? Of course, they had to say, as a coordinate branch of the Government must always say, "We must allow purity of motive, patriotic motive and attempt in good faith to accomplish this."

"If the fourth district, the boundaries of which are affected by this act, is taken as a basis for comparison, it will be found that prior to the passage of the act the difference in population between the second and fourth districts was 149,034, and after its passage the difference was 122,492, which was an approach of 26,542 towards equality of population between said districts. The difference in population between the fourth and sixth districts before the act was passed was 115,144, while after its passage the difference was 8735, which was an approach of 106,409 towards equality of population; and while before the act was passed the fifth district exceeded the fourth in population 105,684, after its passage the fourth exceeded in population the fifth 15,853, which was also an approach towards equality of population, and as the new fourth district has a population of 68,143 greater than the old fourth district, and no change was made in the population of either the first, third or seventh, districts, there was an approach of 68,143 towards equality of population between the fourth and the first, third and seventh districts."

It is, therefore, a question, says the court, without reading more of this, that here was an attempt of the legislature to bring about equality of population as far as county boundaries would allow, and it was the only test adopted by the General Assembly and sustained by the Supreme Court, and yet you have heard it said here again and again that population is not an element, has nothing to do with it. Why, judges don't represent population, and it would be calamitous, indeed, to have a judge represent a special group. Let us examine just those two aspects of the statement for a few moments.

What is it that gives rise to necessity for courts—land where human beings have never entered upon? Scarcely. Courts exist because with the progress of civilization, the industry and the enterprise of man often gives rise to many disputes, but so long as human nature is as it continues to be at present, why, the existence of courts is necessary, and they give rise to courts. Does a dense population make necessary the increase in the number of these tribunals? Why, our own history here in Illinois and elsewhere is at war with such a proposition. Is a population such as we find in the County of Cook interested in anything but the soundness and correctness of judicial decisions? Is it possible that from the County of Cook, where today more than one-half of all the cases that go to the Supreme Court arise, is it possible that the men and women in that county are interested any less than any other part of Illinois in the soundness and correctness of judicial decisions? Not at all. The volume of business that arises is certainly to be compared with all the rest of the State. Are the interests involved of any less importance or of any less value? No one would be heard to make that statement. The interests which arise there, the questions that arise in that county for adjudication by our highest court are certainly as important and as intricate, and certainly need the attention of the very best ability, the highest integrity that can grace any bench anywhere.

I have wondered as I listened, sometimes not plainly expressed, but an indictment, it seems, somewhat submerged of the people of the County of Cook. I wonder why it is that the people of that county, who carry the burden of the processes of civil government in equal share, they have never yet complained and they do not complain now. They ask no favor. They are perfectly willing and always have been and will continue to be just as long as the State of Illinois exists to carry their full share of the burdens of civil government, and are willing to make their contributions cheerfully and without stint. Do they not do so now? Do they not pay upwards of 45 per cent of all the taxes that are levied directly in this great State for the support of your civil government? Do not the people of that county, even under the inheritance tax laws as they have existed, and even in greater measure now with its amendments, did they not pay two-thirds and more of all of the inheritance taxes that have been collected within the confines of our State?

When it comes to those permanent improvements which all men of Illinois welcome—the day will dawn when we shall have those 4,400 miles, for instance, of your good roads—Cook County pays for nearly one-half, and by no possibility can get more than 90 miles out of the 4400. We complain not, but we do object when it is thought that we of Cook county are men who ought not to have a true share even in the selection of our judges.

I come from that part of Cook county which is largely agricultural in its pursuits, just as much so as the interior part of this State, and I confess I wonder why my neighbors, the constituency that sent me here, are a people that are under arrest under this indictment constantly. I quarrel not with you. We are perfectly willing to bear our full share, but we wonder how it can be asserted with some force by men of ability that the man of Cook county shall have less than one-seventh of a voice in the selection of those who shall interpret the laws upon the court of last resort in our own State? Are judges in no sense the representatives of population? You have committed yourselves in more ways than one, as Judge McEwen observed, with so much force and truth. You have committed yourselves to the election of judges; you have refused to go to an appointive system. Why? If the election of judges means anything, it is inseparable that population must have something to do with it. If our elections as in the present Bill of Rights shall be free and equal, they why should a man from Cook County have less of a voice in the selection of your judges of your Supreme Court than the men from any other part of the State?

I well recognize that with the passing of the years and with the mighty progress of Cook county in population in the last half century, there is this disparity now that the judge who occupies the Supreme bench, elected by the electors of the seventh district, represents today more, or is sent by a greater population than all the other six judges coming from Illinois combined. That is a situation that we must deal with now. The General Assembly could not deal with it adequately. And even in this proposal, gentlemen, we have not asked that the County of Cook be put upon an absolute equality. This report is probably more inter-related than any other report submitted by any committee of this Convention, and necessarily so, because inherently in the subject, and what do we find?

We put in section 42 in this report that these reapportionments should be made upon the basis of population only, but in the fifth, sixth and seventh sections, we provide for a slight leaning towards this equality of population, which you find required by the forty-second section. We provide for three justices from that district, from that part of Illinois, which has a very considerable agricultural population today. All the conservatism that you will find anywhere in Illinois today has its place right in this same district. Four great counties, at least two of them populous in addition to Cook, are in this district, and until the General Assembly shall make a change we provide for only three judges out of nine.

It has been said here, why, a single election may overturn the personnel and the character of the Supreme Court. I wish gentlemen would

give a little closer attention to the sections of this report. We do not provide for the election of the three judges from the County of Cook at a single time. We provide for the election of two of them at the election succeeding the adoption of this Constitution, then not until 1927 shall the third, a successor to the present incumbent from that district, be elected, so that you can readily see by no possibility could there ever be elected even the three at a given time in the seventh district. At most only two out of seven could be elected, and it seems to me it would be a very violent assumption indeed for any one to assert that the election of two justices to our highest court, two out of nine, would so destroy the character of that court that the two men who should so be elected from Cook county must so overwhelm their other seven brethren that the men who have been elected from the other parts of Illinois certainly could hardly be said to be strong men, if two elected at a given election in the seventh district could dominate that court absolutely.

No, we need argument more forcible than that, it seems to me. Why assume that any two judges or any three, even if elected at the same time in that district, would be such men as to destroy the character, the ability and the tradition of that court? It is an assumption that is not at all permissible. Has the County of Cook in the past, or the City of Chicago, sent such men to the Supreme Court of Illinois that they were men who have not held aloft its traditions, who have not performed its duties with high honor to themselves and with honor to the State? Has anybody ever come from the County of Cook that is so obsessed, that has so upset the law as to make it uncertain, who has been constantly at war with his brethren so that he stood out not as a judge of a great court seeking to interpret the law, but to destroy it? No, such a charge cannot be made against any incumbent of that court, or any member of that court that ever came from the County of Cook.

Ah, but it is said if we have nine members on the Supreme bench of Illinois, then we will lessen the proportion now necessary to a decision. Why, if you have nine members, you will only have five-ninths, which is a lesser proportion than four-sevenths. Yes, a very convincing argument, so convincing that the ideal Supreme Court of Illinois, as well as the ideal Supreme Court of the United States, would consist of a single member, because then unduly there would be an expedition in decision as well as an avoidance of any dissension which sometimes and very properly graces the work of our courts. Yes, indeed, we welcome it if such an argument is sound, when there shall sit upon the Supreme bench at Washington a single judge because there would not necessarily be the difference of opinion which might arise among the nine members of the court as at present, and we would always have a consistency of decision and an avoidance of those dissenting opinions which sometimes are extremely uncomfortable to the majority.

Yes, the Supreme Court of the United States is invoked for another reason. Here is a court consisting of nine members, a court that adjudicates not only the controversies between individuals, that renders judgments in controversies between States of the Union, but even interprets treaties between sovereign nations themselves, a court the most powerful in all Christendom, a court of nine members, and the gentleman from Hancock, with a good deal of zeal, asked the question, why this court does not take into consideration population in the selection of its membership, and so far, the gentleman from Hancock and I will agree, but when in Illinois we shall have adopted the mode of selection that has always prevailed with reference to justices of the Supreme Court of the United States, then I shall agree with him that in fact the matter of population will not enter into their election at all.

Ah, but they say in Illinois it would be calamitous if two men came from a single city, if two men, members of the Supreme bench, came from the City of Chicago. Two men today, members of the Supreme Court of the United States, come from a single city. They were selected, and yet of the 48 States of the Union, two or nearly a quarter, were selected by the chief

magistrate of the Nation, not by the same one, but by one and by his successor, from the same city, and yet it has not worked disaster in the decisions of that court. Judges are in no sense representative of population nor of political interests. I recognize full well that a judge does not occupy his seat upon the bench as a legislator does in a legislative assembly. I full well recognize that when a judge has been selected, his only duty is to interpret the law as he finds it, as the law is, and not in the interest of any class. I recognize that and I recognize also, just as well as the gentleman who spoke first this morning upon this question, that a judge does not represent any special interests, but let us turn then to the seventh district as now constituted. Can any man assert, with any degree of truth, that one elected by the entire electorate of the seventh district could represent a single group? Where within the borders of Illinois are industries so many and so diversified? Where from every walk of life can men be drawn as in the seventh Supreme judicial district of our State? Where have you the varied occupations, the varied interests, the extremes not only of wealth and poverty, but of occupation everywhere? You cannot find another part of Illinois that can give such a diversity as this single district, and yet we are told that necessarily a judge elected from that district of five counties must necessarily represent a single group.

Why, if you could possibly find any portion of the United States into whose selection enters so cosmopolitan a population as in that district, it seems to me it would be impossible to discover. No, I cannot understand why it should be said and why it should be written now in the fundamental law of Illinois, when the opportunity is ours to correct this thing to at least approximate some degree of justice—I do not know why it should be imbedded in the Constitution if ratified for perhaps another half century, that a growing population now exceeding one-half of that of the vast commonwealth—why this growing population should be denied, if not an equal, an approximate representation upon the highest court of Illinois.

No, gentlemen, it will not do. If you ponder upon this matter, it seems to me you must recognize that the bar of the City of Chicago and the County of Cook and adjoining counties is a bar representative of the intelligence, along with the other portions of the State, not only of the profession but of the citizenship of that portion of Illinois, and I am certainly convinced, whatever your ideas may be upon other things, that when it comes to the selection of a judge of our court of last resort, there indeed the same conservative intelligence and same patriotism will prevail that has obtained in the selection of judges from the other districts of Illinois.

Mr. TODD (Peoria). Mr. Chairman, there has been an intimation thrown out here that the Supreme Court of its own initiative has come into the Convention and endeavored to influence the delegates on the question of the number of judges that should be in that court. I was a member of the Committee on Judiciary, and during a session of this committee, while I was absent, a proposal was made that the committee be divided, and that the down State members form a sub-committee with the chairman of the committee, Mr. DeYoung, as a member, and that the Cook county delegates form a sub-committee. Following that, the consideration of the number of judges in the Supreme Court was brought up, and I had thought up to a certain time that the only reason for urging two additional members for this court was that the needs of the court required additional judges, and it was because of the thought that was in my mind that I first took up the question with the members of the court as to the need of additional judges on the bench, and they then became interested through my solicitation in that question, and it was discussed in the court, and upon a request from the down State members, a conference was held between the court and the sub-committee of down State members, including Mr. DeYoung, a member of that committee, because he was chairman of the judiciary committee, and I think that that was the occasion that caused the Supreme Court to take the action that it did in calling or permitting a conference with us, and discussing this situation; and I make these remarks solely for the purpose of informing the delegates here just what my recollection is of what

occurred, and what brought about the conference between the Supreme Court, seven in number, and the down State sub-committee, with Mr. DeYoung acting as a member of that committee.

Mr. GREEN (Champaign). I don't care to discuss this any more in detail, but I have been asked to make some observations on the matter that I would like to comply with.

CHAIRMAN CUTTING. There is certainly nothing to prevent the delegate from Champaign speaking now.

Mr. GREEN (Champaign). It seems to me, Mr. Chairman and gentlemen of the committee, that we have got far away from the issue as presented by these two reports. Now may we just forget that we are Chicago or down State, or that we are in favor of this report or that report, or the individual who has advocated these things as any particular individual, and try to look at this subject as I know you ought to from the standpoint of the State at large. Let us get the issue, because we have left it and gotten away from it. The issue is that the gentlemen who argue this matter from Cook county are asking this Convention to fasten it upon the people of Illinois, during the life of this Constitution, the absolute intolerable rule that there shall be three judges on the Supreme bench from Cook. I say in practical results, you will all say the same thing, fasten upon the State of Illinois three judges, or one-third of the court, from the City of Chicago, because of its predominate population in the County of Cook. We said in the beginning that we must consider these two sections, five and six together, in seeing where we are drifting. Now there are just two questions involved, as ultimate questions; namely, first, shall we change the present Constitution of Illinois, which provided for seven judges, shall we depart from that precedent and increase the size of the court to nine, and that is the only question that arises directly upon section 5.

Is there any reason why we should increase the size of the court? Now with all these things that have been urged for nine judges of the court, there has not been a syllable uttered in support of the wisdom of the change. Let us admit that is undisputed, no matter where we live. Not an argument advanced why we should increase the size of the court. The only reason that appears to bear on it is to provide two more positions, and I dignify it by the word position instead of job, because no one looks on it as an attempt to create two more jobs. But the only reason advanced for creating it, is that we will make two more places on the court for one county in the State, but it is not claimed, from the standpoint of the State of Illinois nor from the standpoint of the court itself. Now there is no demand or reason for it. Now if that is true, then can't we agree and settle that question easily? Nobody offered the smallest approach to an argument for changing the size of the court. The other question then arises on section 6, which follows in natural sequence, that we should change the system, this absolutely satisfactory system, of a seven judge sureme court, and that question to which those of us who are outside of Cook county, and I believe with equal force applies to those inside of Cook county, object when we see to what it leads us. Forgetting all these good arguments which have been made against limitation, which have no place when directed to this question, do we want to pass upon this State so that the legislature cannot change it the unalterable rule that as long as this Constitution lasts, one-third of this court shall come from one county. It is not a question of limitation in the sense the other question arises. These gentlemen from Chicago are asking more from us by that proposition than we have demanded from them on the limitation question, because those of us who signed these substitute sections, which are suggested as a proposal, did not ask to deny to Chicago more than one judge, while this Constitution lasts, yet by the very argument they make, all their efforts are directed toward that conclusion and the premise is wrong to start with. We do not by this substitute section say that Chicago shall never have but one judge, but we say that this matter of redistricting the State shall be left to the General Assembly for he future, and it may in its wisdom provide for more than one judge in Cook County if it sees fit, and yet they come to us with the proposi-

tion that we will agree to a situation which forever guarantees them three judges out of nine. Now just let us forget who is on each side of the question, that is the main issue. We say to them, "You advance no argument why the court should be increased."

Mr. MILLER (Cook). May I ask the gentleman a question? Under section 42 of the report how could a legislature give Chicago more than one judge, or Cook county even?

Mr. GREEN (Champaign). I was coming to that; I assumed that would arise, that was the answer made when the section was presented, and I believe a fair interpretation of section forty-two would allow the legislature to make Cook county with a part of another county or two counties of the State, or the other part of the county outside of Chicago, except that this is a provision which ought to be under it so far as the county boundaries will allow the redistricting, farther than anybody intended it should go.

Mr. MILLER (Cook). Is it to permit the legislature to give Chicago more than one judge?

Mr. GREEN (Champaign). It ought to be possible that sometime the General Assembly, if we have a seven judge court, should give two judges to Chicago, but I think out of the seven, under no circumstances ought more than two come from Chicago.

Mr. MILLER (Cook). Are you in favor of that?

Mr. GREEN (Champaign). Yes, I will be in favor of it. I am going to suggest in a minute how I think perhaps these other sections can amend it.

Mr. MILLER (Cook). Are you in favor, in view of Chicago's population, of having a majority in both houses in the legislature? Or the liability of it having a majority?

Mr. GREEN (Champaign). I am not going to answer that question now, because it is not before the committee at all, and it is not fair to us to distract the attention of the committee.

Mr. MILLER (Cook). Now, please, I did not ask that to distract your attention. I beg your pardon.

Mr. GREEN (Champaign). I will say yes, I am opposed to giving them a majority in both houses of the General Assembly.

Mr. MILLER (Cook). Without that majority, in view of your attitude, and your view down State, do you think Chicago will ask for more than one judge?

Mr. GREEN (Champaign). I will say to you that I would be willing, in making this Constitution, to make a provision, by some provision either in the minority report or otherwise, that they would be guaranteed an opportunity to elect two judges from Chicago. I think it ought to be safeguarded, with the right to have any district electing them if they could get more votes at large—but I am going to discuss that in a minute. If the element of population is vital, at all, if that be conceded in this court, those of us who do not want to change the Constitution from seven judges—and I am not sure it hasn't a large element of fairness in it, to provide two judges from Cook County, I am in no sense objecting to it—

Mr. MILLER (Cook). Were you opposed to nine judges before the Supreme Court, or certain members of the Supreme Court, opposed it?

Mr. GREEN (Champaign). I never came to a conclusion about it. I neither was in favor nor opposed to it at all. I have answered you frankly. I know some members of the committee who were opposed to it, but personally I had not made up my mind. I meant to study it more definitely before coming to a conclusion of the question. Without regard to my own opinion I am trying to forget at the present what anybody wants and look at the naked argument. Let us get back to the question. Is there any necessity for increasing the size of the court? We settled that on section 5, and having settled that question, that is our judgment, that there is no necessity for an increase, and no argument having been advanced for it since then, we should not discuss it any further, but I say to you frankly, so far as I am personally concerned I believe that we ought to get together in some way that will compromise the difference of opinion, should there be a differ-

ence of opinion, to the end that this element of so-called representation by population be given some consideration, and at any rate for the benefit which may come in the aid of the Constitution generally, but if we adopt this section as it is reported, we then preclude ourselves from the opportunity by the legislature, or in any way to prevent the inevitable and unescapable rule that there will be one-third of the court from the County of Cook—

Mr. HULL (Cook). Do I understand that you are perfectly willing to fasten two judges out of seven in the State from Cook county?

Mr. GREEN (Champaign). No, I did not say that. Let me make it clear to you. My personal opinion is this, and I believe it will be suggested in an amendment which I know was the purpose to offer; now listen, you asked the question and I presume you did not ask it to be funny.

Mr. HULL (Cook). No, I wanted to find out.

Mr. GREEN (Champaign). My judgment is that this would be a fair provision, about it, section 6, the next section, that the State shall within five years after the adoption of this article be divided into six districts for the election of judges, or justices, at least one justice of the Supreme Court to be elected from each district; no county as now existing should constitute more than one district and no more than two justices should be selected from any one district. Now until that time, until the division into six districts be made, the present Constitution should stand. Now, then, my personal idea is that this ought to be added to that, but I find some disagreement among my colleagues as to whether this is wise. That is my personal opinion, that the justices shall be elected out of the State at large and reside in the respective districts from which they are chosen. My idea about that is this, then if perchance there are nominated or sought to be chosen in Chicago two justices, one who could not appeal to the electors even in Chicago as being altogether satisfactory, that it would provide opportunity for the nomination or opportunity for contests between him and one judge, additional judge from some other district, so there would be an opportunity for the State to select the extra judge, speaking of the extra one in the district from some other county than Cook county, so as to save those, if you please, in Chicago, who might be disappointed at the selection of one of two men who would otherwise be guaranteed to them by assisting in choosing one man from another district outside of the State, so the two would come from some other district. Now that is only my personal opinion, but it can be safeguarded in that way. However, I am perfectly willing, if it be necessary, to compromise our differences. Of course no one will be influenced by what I think about it, but I will gladly support a Constitution which guarantees two judges out of seven; not a guarantee in a way which this majority report provides, but which is practical operation rather than a guarantee for the life of the Constitution of one-third of the court. In other words, I feel that would be some kind of a fair compromise, and it would authorize the manner or the State court to function, which I do not believe that any delegate in this Constitution wants to change, which is that the size of the Supreme Court be not increased. And I will personally—and I hate to discuss what I personally will do, because I know that is not decorous in a way, to adopt these things, but it may be that I voice someone else's opinion—in order to compromise the situation and save that condition, and do no violence in my judgment, to many of our ideas of the security of an independent court, who so provides that it should be practically a guarantee of the seven justices, then I think the probability of your selecting good men where you elect two of the seven would be much greater than the opportunity of electing a bad judge, if I may use that expression, would be much less if it was two and seven than it would be where it is three and nine, and if indeed there be any danger of both justices, which might be elected out of the seven, being unfortunately unpopular in the sense that the bar thought they were not worthy, if that be admitted, how much more important is it that we guard ourselves against allowing a condition which would ensue if you elect three of them, one-third of the court? Now, gentlemen, isn't that provision fair? Isn't it fair and if it reflects any

doesn't it divest this question of any effort to penalize Chicago? Isn't it, to speak in the vernacular, just kind of senseless? Now, bearing in mind the issues made, may I occupy your time a moment to address you on the suggestions which have been advanced against this situation, against this minority report? The Governor has suggested to me the necessity of the lack of application of the argument that the Convention of 1870 gave much credit or force to population. It has been remarked, and it has been used as a basis of argument, and I would be unfair, and anybody would be unfair, if they argued that population to some extent is not an element to be considered. Why, certainly I think population is an element to be considered. For instance, I don't think that any one county in the State, with twenty thousand population, ought to be guaranteed a judge for the same reason I don't think the population figure ought to be used as the controlling, paramount issue of division. But the gentlemen who argued about what they did in 1870 did not tell all of the facts. Let us take the seventh district, when it was organized in the Constitution of 1870, at the time the counties in that district, five in number, contained four hundred and fifty-five thousand nine hundred people, or four hundred and sixty thousand in round numbers. There were three other districts, containing less than three hundred thousand, two or three, one district, the fourth, containing two hundred and ninety-five thousand, the fifth, two hundred and ninety-four thousand, and another one two hundred and ninety-eight thousand; there were three districts in the State that contained less than three hundred thousand population. Now they are arguing to us that they let the population settle it. Now let us see, not Chicago alone or Cook county alone, but at that time the population was three hundred and forty-nine thousand, nine hundred and sixty-six, that is in Cook county alone there were three hundred and fifty thousand people. Fifty thousand or over, or more, than there were in either the fourth, fifth or sixth district, as organized at that time. Now why did they add Will, DuPage, Kankakee and Lake counties? Why did they add Lake county, it had twenty-two thousand people, I will use round figures, and Will county had forty-three thousand people.

Mr. DAVIS (Cook). It was contiguous.

Mr. GREEN (Champaign). No, it was just as contiguous to the fifth and sixth districts, both of which had less than three hundred thousand. And if they added Lake county to the sixth district it would have had thirty thousand less than Cook county alone.

Mr. DAVIS (Cook). May I inquire if it was not from a political consideration that they did so?

Mr. GREEN (Champaign). All right, let us take it that way. I don't know whether it was or not, but they could have added both Lake and DuPage, Lake with twenty-two and DuPage with twenty thousand, they could have added both of those counties to the sixth district, and it would have had less population than Cook county alone. Will county at that time had twenty-three thousand and Kankakee twenty-four thousand, and they could have added both of those counties to the fifth district, to which they were contiguous, and it would have only had five thousand more than Cook county. So it won't do to say that the rule of equality of population was absolutely observed, or observed to any extent, except to provide contiguous territory and some degree of respect for the element of population. Now that ought to remove the argument therefore, that there was anything in the old Constitution that gave any defined power of argument or persuasion to the rule of population. Now, then, let us consider that language; they said the State should be redistricted, observing the equality of population so far as the county boundaries would allow. So far as the county boundaries allow; and isn't it a fair assertion of those of us who argue to retain the seven judge court, that that language implied that they expected more than one county would constitute one district, and isn't it plain and patent that just as forcibly as it was argued here, as the English language could say, that the gentlemen who framed this Constitution, looking into the future, provided against doing the very thing that this majority report seeks to do to us now? Therefore all this talk about equality of population being one

of the things to be considered as being conceded falls to the ground when we are presented with a request to create a district in which three judges, or one-third of the court, shall forever be fastened upon the State, as a rule not subject to change. That ought to dispose of all of these elements of argument without a moment's thought—

Mr. DAVIS (Cook). Will you enlighten us further as to the meaning of the word "district?" Are geographical lines districts? Why do you insist on calling attention to the fact that one district shall have three judges? What sort of a district, what is the population, what is its composition? What sanctity is there in the word "district," I would like some enlightenment on that.

Mr. GREEN (Champaign). The same sanctity as the word "population," when you come to talk about courts.

Mr. DAVIS (Cook). May I say that when you talk about population it covers numbers, which conveys to the human mind a simple meaning, but when you say district, it does not convey anything.

Mr. GREEN (Champaign). I perhaps should apologize for the form of my reply, but here is the word "district." The sanctity of the word, if we are to clothe it with that dignity, was this, that they wanted to seal it so that this court could never be dominated from any one territory or class of people, and they divided the State into districts to prevent that thing, and they naturally had to have some definition for districts, and they said equality of population.

Mr. DAVIS (Cook). You have been appealing to the fairness of the judgment of the men here. Why do you say that the thing which prompted them to do that was to make certain that no section of the State should dominate the court? Why isn't it possible to say that the dominant thought in their minds was to apportion it so that every part of the State shall be represented in that court?

Mr. GREEN (Champaign). I will answer that. I hold and believe that the county boundaries actuated their holdings—

Mr. DAVIS (Cook). Unfairly?

Mr. GREEN (Champaign). All right, but speaking to your majority report, nobody has sought to take away from you what you already had, while you are here trying to take away from us the opportunity of defending ourselves against the great, and I might say overwhelming domination by one of these districts. Your argument is appealing, if we were trying to take away a judge from Cook county, just as I believe that the answer is unarguable, that you are trying to fasten on us one-third of the court in one county.

Mr. DAVIS (Cook). Fairness, at least in the use of the word, is the dominating thought of all of the remarks that have been made by the Illinois delegates. Is it fair to say that the majority report is taking away anything from the down State?

Mr. GREEN (Champaign). Surely it is.

Mr. DAVIS (Cook). How is it?

Mr. GREEN (Champaign). It is taking something away, because it is removing that opportunity for independent judgment in the judiciary by men chosen from that district, in that one district in that State, with certain ingredients in the population, shall not have that overpowering influence in the Supreme Court of the State. It is to prevent any one section of the State from having more influence than the other, not because there are more people there or less people there, and I am going to conclude what I say when I get to it with just that reference. It seems to me it ought to be controlling in perfecting a system which will fasten upon us that which I consider an unfair and improper method of determining the judiciary, the Constitution of 1870 provided against it—

Mr. DEYOUNG (Cook). Do I understand you to say that three judges out of nine, coming from the seventh district, would dominate the court?

Mr. GREEN (Champaign). I do not mean that they would absolutely control it, don't try to get me in the position of saying that they would outweigh the six, but I would say in a court made up of three judges from

one territory, with the divided courts, and the growing tendency of dissenting opinions where you have the larger courts, would give them undue weight, disproportionate to what they ought to have, as I view it, to give judgment for the people. It would not be controlling, but it would have a great influence.

Mr. DEYOUNG (Cook). One-third of the court would come from this district?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). And the other two-thirds would come from the other districts?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). Wouldn't it necessarily be an assumption on your part to say that those three judges could by persuasion get at least two of the rest of your court to join them?

Mr. GREEN (Champaign). No, it is not; that is a practical question, and you know it is not. We today, with the Supreme Court of the United States—and I want to talk in the abstract and not in the concrete—every lawyer knows are facing a situation where the conditions and the ideals have put us in fear of the domination, by persuasion, of certain influences on that court, that we do not all believe stand for the highest ideals of the republic, and I propose to have free institutions in Illinois, and not have the situation where great questions like the suffrage question, great questions like the liquor question, have swayed in the balance until one judge, perhaps, casting his silent vote on one side or the other tipped the scales of justice to what fifty per cent of the people felt was wrong; oftentimes influenced by the environment which they particularly represented, because, as was so well said by Justice Cartwright, these justices, after all, are human.

Mr. DEYOUNG (Cook). Referring more particularly to the decisions which you have in mind, three judges from the State outside of Cook county, and three on the other were equally divided, weren't they?

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). You argue against three judges on the seventh district, because it meant that one of those judges from the country should give that decision?

Mr. GREEN (Champaign). No, Mr. DeYoung.

Mr. DEYOUNG (Cook). Then what right have you to assume that?

Mr. GREEN (Champaign). Let me say to you, a man of your distinguished ability don't need any argument to convince you when you multiply by three the potent influence which might have actuated the judgment of the man who tipped the scales, your hazard is multiplied by three.

Mr. DEYOUNG (Cook). You were speaking abstractedly, and I don't know what right you have to assume that the judge from the seventh district turned that case?

Mr. GREEN (Champaign). I do not say that the judge from the seventh district determined the case. It would not make any difference if this was a district from Champaign, or East St. Louis, if the premise is right, if there is danger, in multiplying by three the influence of the environment of any judge on the bench it is wrong, no matter what district he comes from. It would be wrong if he came altogether from the farmers.

Mr. DEYOUNG (Cook). Haven't we just as much right to argue that? You speak of fastening on Illinois by Constitutional provision three judges from the seventh district—wherever that district comes from—

Mr. GREEN (Champaign). Yes, without any opportunity of the State to protect itself.

Mr. DEYOUNG (Cook). If your minority report should prevail as it is now drawn, don't you fasten on the State of Illinois, and on the seventh district, Supreme district, one judge in all the years to come against six judges from what in all probability will be less than one-half of the population? When you are talking about fastening things, let us look at it in two ways.

Mr. GREEN (Champaign). As a practical proposition, as it is now drawn, you are right, but as has been said already, there is no disposition to

so tie ourselves up to the particular language of section six when we reach it, that it should not be subject to amendment to overcome the thing you mention, as a way of compromise.

Mr. DEYOUNG (Cook). I don't see the fairness of your arguing about fastening three judges on the State of Illinois, when your very minority report would fasten on this State a manifestly gross injustice.

Mr. GREEN (Champaign). Gentlemen, don't let us be distracted from the positions we take. We have never denied the right of these gentlemen to have an amendment to section six which would safeguard them, and it would be unfair for us to sit here in obstinate refusal or even compromise with them, but they cannot put the words in our mouths that we are personally committed to that proposal without amendment. The result you mention might work out, but we have not reached that section, and when we do I believe you will find as much fairness and disposition to give you an opportunity to prevent that thing occurring, more so than you show in your attempt to fasten your scheme on the State.

Mr. DAVIS (Cook). We will all assume that there is usually a good reason in the things that the gentleman from Champaign speaks about, but did the gentleman from Champaign have anything to do with the drafting of the minority report?

Mr. GREEN (Champaign). Yes.

Mr. DAVIS (Cook). The gentleman had an opportunity to incorporate his idea of fairness into it at that time, did he not?

Mr. GREEN (Champaign). I did; we tried to labor with the committee to get some compromise, but the report was drawn with nine judges in it, and we were put to the alternative of presenting this proposition on the floor in some form, and we followed the same rule that they did.

Mr. DAVIS (Cook). These figures on population which you have told us about, of what year were they, 1870?

Mr. GREEN (Champaign). 1870.

Mr. DAVIS (Cook). May I call the attention of the gentleman from Champaign to the fact that when the Constitutional Convention was in session it met in 1869, and the basis of their discussion, and the basis of their deliberations and results of conferences were the figures of 1860, which were the last available figures of the last census, and I am not so sure but that if we had the figures of 1860 in place of the figures of 1870 we would find some substantiation for the position taken by the gentlemen from Cook that population did enter into their deliberations.

Mr. GREEN (Champaign). I say it was given some consideration, but it was not given this paramount weight you people seem to fasten on it. Nobody has heard us say that this question of population has nothing to do with it.

Mr. DEYOUNG (Cook). May I say in answer to the question of the gentleman from Cook, that in 1860 the population of Cook county was 144,000, whereas in 1870 it was 349,000.

Mr. DAVIS (Cook). That is the answer.

Mr. DEYOUNG (Cook). It more than doubled.

Mr. GREEN (Champaign). We are so glad for the information. Gentlemen of the committee, do you think for a minute that these wise men that sat in this Convention in 1870, and knew that the population of Cook county had doubled in ten years, did not look far enough into the future to see that this disparity of population would ever outstrip anything that they then had observed?

Mr. DAVIS (Cook). If I may be personal without any reflection whatsoever, it might be expected that the gentleman from Champaign would exercise as much foresight as the gentlemen did in 1870, and I will ask his judgment and opinion as to what is the future of Cook county for the next fifty years?

Mr. GREEN (Champaign). I would not assume to say.

Mr. DAVIS (Cook). And no more did your forefathers assume to say.

Mr. GREEN (Champaign). Yes, they had before them the fact that it had doubled in ten years.

Mr. DAVIS (Cook). And so have you before you the evidence of its growth in the past ten years.

Mr. GREEN (Champaign). No, not doubled, but suppose you got to be a people of a billion population, I do not believe it ought to have the disproportionate representation on the Supreme Court that you are demanding by the majority report. That is my personal opinion. I do not believe you all agree with me, but I believe it represents the best thought of those who wish to preserve the court from undue influence and domination.

Mr. DAVIS (Cook). Purely on the question of parliamentary procedure I do not think it is fair in the consideration of the question pending before us, which is the adoption of section five of either the majority or minority report, I do not think it is fair that any weight should be given to the suggestion made that section six of the minority report would be so amended as to meet the views of those who have been standing for section five of the majority report.

Mr. GREEN (Champaign). Now, Mr. Chairman——

CHAIRMAN CUTTING. The gentleman from Champaign has the floor and he need not be interrupted unless he wants to.

Mr. GREEN (Champaign). I am glad of the suggestion, because don't you think necessarily that kind of a suggestion of the fairness of those who are contending for this minority report, does violence to our high regard for these gentlemen's opinion of our fairness on a proposition upon which we pledge our word. In other words——

Mr. DAVIS (Cook). Haven't you personally stated, Mr. Green, you do not represent the views of the minority, or any one else, but that they are your personal views? I emphasize the fact that it would be unfair in considering section five to state what might happen to section six.

Mr. GREEN (Champaign). I believe you misunderstood me, in stating I do not represent the views of the minority. I say that so far as these observations are made from my personal viewpoint, as far as the amendments are concerned, they are my personal opinions, but I have talked with a number of my colleagues and some of them go much farther than I would be willing to go, but it is not fair to speak for any one in detail as to what he would do. It is not fair, if they insist on calling it a personality it is not fair to those of us who are trying to prevent a change in this system to impugn a motive of treachery that by getting section five adopted we would put on the screws and refuse to show common decency in section six, and yet that is what they have impliedly charged us with. Now they do not mean it; I am sure that the distinguished gentleman who voiced that suggestion will be ashamed of it, before the day is over, no matter how the debate goes, because nobody in this Convention is built that way. I know it, he knows it and I do not believe he made it in all seriousness.

But may I remark this, the way we worked on the committee, we kind of got by section five before we knew it, and were in section six; and you cannot consider one without the other, because you could see where you would get off. The rest of the committee will bear me out on that. We did not want any row on the committee on it, because like the judge said on a mooted question in a lawsuit, he said "let the witness answer the question," so it was brought to the committee here. My distinguished colleague who voiced the idea of getting one outside and two in, I know had good intentions, but there are some people in Chicago that would not be satisfied, and I rather think there are some delegates who will not be satisfied with that; when you get nine judges then you have to decide what you are going to do with the court? But, when you keep the system as it is we ought to be able to work out some compromise; I don't claim any degree of ability at all in that direction, but I would leave it to you delegates who are to vote on this question as to that. The nine men court is a matter of national dispute in this State, as there are so many five to four opinions of the Supreme Court of the United States, and I know the fairness of these gentlemen contending for nine judges will permit the expression that that is largely induced by the size of that court, and it is universally true that as you increase the

size of the court you increase the number of these one man decisions where one man has eventually tipped the scales. And looking back a little ways into the history of the country we all agree that on these great questions of public policy the Supreme Court of the United States has not been able to, at least more often than they have, come to a unanimous conclusion, but it is the history all over the country that the larger your court the greater number of divided opinions, therefore there is not any argument in favor of their being more unanimous or better results by increasing the number when the experience of the United States Supreme Court is such that I believe today the members of the bar would agree that it would have been better if it had never consisted of nine judges, although they represent 105 million people; and many, many times great States like the Empire State without a representative of that State on the Supreme Bench; Illinois as I remember it, was only favored once, and at one time a very small State in the middle South had two justices on the bench, Judge Davis, and I don't remember the other one.

Now reference was made to the lack of understanding about the cases and the Elevated Railroad case was cited. I don't want to tire you, but someone will holler "Question," and I will quit; it was said in that suit the judge wrote a decision in that case, in which he talked about an elevated railroad having to run on a single track or having to condemn a building so it would be able to run by the corner. That is the crux of the thing. A law ought to be the law whether it affects a ten story building on the corner of State and Madison street, Chicago, or affects a one story building in Cairo. If perchance those responsible for the condition giving rise to the lawsuit had exercised some foresight and expected the same results which would have resulted if they had been pursuing the rights which would protect property rights in a small lawsuit, they would not have gotten into the dilemma. It is the outstanding fact in this great cosmopolitan city, time after time, term after term lawyers come to this court asking that lawsuits be decided a certain way because there is a particular condition in that city, and that is the thing which alarms them, because the law must be the same regardless of conditions. It is enacted on principle, and it must fit a ten story building in the city as well as a one story hovel in the country, and it is because we don't want decisions dominated by influences that will take into consideration particular conditions in a cosmopolitan city we are seeking to have this court kept intact against that kind of domination. Now I am not unmindful of the suggestion that has been made about comparison with the great Empire State, and New York city, where a number of the judges are elected at large, with a provision for a temporary justice, and I think at one time there was a temporary justice of the Court of Appeals—

CHAIRMAN CUTTING. I have a telegram from the clerk of the Court of Appeals saying there are two elected from Greater New York and one from the immediate suburbs, making three.

Mr. GREEN (Champaign). I know there were times when there was only one from Greater New York.

Mr. CUTTING (Cook). But they were elected on the general ticket.

Mr. MILLER (Cook). When was that one?

Mr. GREEN (Champaign). The date? I had it looked up, for me, giving the personnel, showing the makeup of the court from time to time; there has been times when they had one, but usually more than one.

Mr. MILLER (Cook). How long ago was that?

Mr. GREEN (Champaign). In the last seven years; it was about seven years ago.

Mr. MILLER (Cook). How many did the suburbs have at that time?

Mr. GREEN (Champaign). I could not tell you. To get back, the question is, shall we increase the size of the court? Anything the matter with it? Nobody said there is. We are not a Convention sitting here to create more positions or create additional places. Now I come to the thing with which I want to close. It does seem to me, gentlemen, not personal argument, but argument which comes out of the heart of every man in this Convention, it is an argument which really perhaps it would have been better if it had

not been necessary to advance it in this Convention, it is prompted by the suggestion of the distinguished judge, the delegate from Cook, Judge Cutting, in which he rolled off his tongue, with the undoubted force and wonderful eloquence which he always uses, this phrase, "Majorities must rule." That to my mind is what is the matter with the whole thing, and I believe it is your conviction that the judiciary must be independent of the majority, and when it is asserted that because there are three million people in one county or two and a half or three million people in one city it should have more representation on the court, here is the complete answer to it: There are three departments of government, the executive, chosen by the people; the legislative, which represents the people, and we do not have to go back one week to remember in this hall when that great compliment was paid to the judiciary by the distinguished delegate from Cook in support of his proposition to turn over to the courts the power to do legislative things with reference to public utilities when he said that the court was the institution which should have charge of those things, and there was considerable debate on the part of some of us who felt it was an assault upon the very foundational structure of the independence of the judiciary, but that compliment was paid. Ever since we have had a Nation, ever since Illinois has been a State there has been a landmark by which we were steered in our efforts to keep a pure judiciary, that it should not represent population, that so far—perchance if there was a litigation that arose in which the whole people of the State of Illinois were plaintiffs, and there was a ragged, disgraced degenerate from the gutter who stood upon one side of the table, represented by no one, and upon the other side, represented by the State's attorney, stood the six million people, in the indictment or information, upon which this man was to be tried, that there was a tribunal that listened not to the cry of the populace, that was unmoved by the fact that its position was dependent on the electorate which had to do with the institution of this lawsuit, which may have elected the State's attorney, but there sat this impartial tribunal above and beyond the reach of majorities or population, absolutely free from the voice of the majorities, and the way to keep it there is to make the Supreme Tribunal of the State of Illinois absolutely immune in its composite makeup from the opportunities for half of the population of the State to yield any more influence in its forms of lawsuits with one against six million than if he had the clamor of the mob at his back.

Mr. DEYOUNG (Cook). Do you think the fact that the three judges came from Cook would have any influence on the trial of that poor outcast recreant you spoke of?

Mr. GREEN (Champaign). I say that majority of population should never be the paramount force to choose the Supreme Court.

Mr. DEYOUNG (Cook). I understand then that the proposition that the gentleman from Champaign stands for is this, that half the population of the State must have less than one-third, but less than half the population must have more than one-half or two thirds of the Supreme Court?

Mr. MILLER (Cook). I will keep you but a moment, but I feel that this is so important that what very little I have to say on this matter I believe ought to be said. Very little has yet been said against the proposition that a nine membered court is no more efficient or perhaps less efficient than a seven member court. I start out with the proposition that the Supreme Court of Illinois is now overworked. No one will deny that fact. The court itself will admit it and we need go no further. We are confronted by the proposition that to increase the court to nine will be to decrease the efficiency of that court, and to court one man decisions. I respectfully urge that that position is untenable. The Court of Appeals of New York consists of seven, with the privilege of claiming more, calling them in, and they call enough so that there are ten or eleven. Why do they do so? Because they don't know any better, or is it because they want to decrease the efficiency of the court? They have had experience both ways, and will anyone seriously contend that that court does not know that more judges can do more work? Has the Supreme Court of the United States failed to discover this great secret, which was not discovered by the gentleman from Champaign until

he had talked with the members of our Supreme Court. Has the United States Supreme Court never discovered it? Never discovered that seven judges can do more than nine? If they have, why don't they make a practice of sending them, two of them, on a vacation? The Supreme Court of Nebraska has a certain number of judges and they are empowered by law to appoint commissioners and they do it, to help them out with their work.

Mr. GREEN (Champaign). Haven't we done that very thing with the Appellate Court, so as to preserve the opportunity for them to curtail their business?

Mr. MILLER (Cook). I am talking about the Supreme Court.

Mr. GREEN (Champaign). I say haven't we done that very thing here in this article, so that they may divest themselves of the work of the Appellate Court?

Mr. MILLER (Cook). I am not talking about that; I am talking about whether or not nine judges are efficient.

Mr. GREEN (Champaign). You are raising a question that has never been raised in any argument that has been advanced.

Mr. MILLER (Cook). If the gentleman wants me to stop I will stop.

Mr. GREEN (Champaign). No, but that is the first time a suggestion has been made along those lines.

Mr. MILLER (Cook). We have examples in the Supreme Court of New York and Nebraska, all of whom have had experience, and none of whom have discovered the great secret that the gentleman from Champaign learned recently, and perhaps he will recall that last winter during the field day of the State Bar Association, when one of the ex-justices, Ex-Justice Cook of the Illinois Supreme Court—one of the very able former judges of that court—stood here and talked to him, and I read from the record. I asked the question, "I think that it is the opinion of some of the judges of the Supreme Court that to increase the number of judges to nine would rather lessen the chances of getting an opinion by the whole court; what is your individual judgment about that, from your practice and from your experience as a member of the court?" Now, gentlemen, without any reflection on the present judges of the present court, I yield to no man in my respect for them, not even the gentleman who has offered this motion, he has said that at least two of them, each one of them has no peer—I will go further, I will say each of the seven is superior to all of the others, but we are all influenced by our surroundings, and our environments, and here is what Justice Cook answered; he is not there now, "I would be inclined to disagree with any one who took that view, and I think if our proposal should be adopted"—that was the one which was substantially adopted—"giving the justices supervising power, and power to make rules, etc., it would be quite necessary to increase the membership of that court, because of the added duties that are placed on them by the scheme, and I don't think the efficiency of the court would be lessened by the addition of two members, from my own experience."

CHAIRMAN CUTTING. Are you ready for the question?

(Motion adopted.)

Mr. GREEN (Champaign). I move the adoption of section five.

(Adopted.)

Mr. GREEN (Champaign). Before a motion is made to adopt section six it is apparent to the minds of all of us that there should be some effort to work out a scheme which will be mutually satisfactory to the delegates from Chicago and down State, and to that end I move that the Committee on Judiciary be given further opportunity to try to present an agreed section with respect to that section. The reason for that is, that the chairman presiding on this committee has discussed with those of us who signed the minority report in a most frank and fair way his willingness to meet on some common ground in the event it was determined to leave the number of the judges the same, and to form a compromise which I believe we already made; in answer to the imputation that we might not do it, I believe we ought to be given that opportunity. I feel sure the spirit of fairness mani-

fested by the majority of the committee will enable us to get together so the Convention will not have to debate the question long.

Mr. HAMILL (Cook). I move that sections six and seven be recommitted to the Committee on Judiciary.

(Adopted.)

Mr. TRAUTMANN (St. Clair). I move that the committee do now arise and report the actions taken by the committee on sections 6, 7, 37 and 43, and these amendments which have been offered, and referred to the committee. Everything that the committee has to report on has been considered, except these matters which have been asked to be re-referred to the committee; and when that committee makes its report there will have to be a new reference.

CHAIRMAN CUTTING. It is moved that the committee do now arise and report to the Convention.

(Adopted.)

President Woodward presiding.

Mr. CUTTING (Cook). The Committee of the Whole having under consideration the judiciary report begs to advise it has disposed of all matters referred to it, except sections six and seven of the minority report, and also of the majority report, and there are three separate amendments proposed that the committee recommends be referred by the Convention to the Committee on Judiciary Department.

(Report adopted.)

Mr. MICHAL (Cook). About train time last night when I left Chicago I met Judge Olson, the Chief Justice of the Municipal Court. I don't think it is necessary for me to discuss the wonderful working machinery and personnel of that court, but it seems that in the proposed article, proposal 383, of the report of the committee sections 29 to 39 greatly affect the workings of that court, and that a great deal of information can be had from the executive head of that court, Judge Olson. He has asked me to ask this Convention to condescend to listen to him to give his version and the version of some other judges who are thoroughly familiar with the workings of that court, with its multitude of benefits, at this Convention before we finally pass this proposal. I therefore ask the unanimous consent of the Convention that an invitation be extended to Judge Olson to address this Committee of the Whole on the subject as it affects his court, over which he presides, and has presided since its inception.

Mr. CORCORAN (Cook). I believe we have closed our field days and if we open up for one man I believe we will have to open up for several more. I believe it is a bad precedent.

Mr. MICHAL (Cook). I believe that the distinguished delegate from Cook will realize that this practically undermines the system in Chicago. It is a vital question; and certainly, gentlemen, we are entitled to have the information from the executive official of that court who has been at the head and presiding over that court since its inception, and I think we won't lose anything if we condescend to have him come over and give his views; whatever we do, afterwards, is a matter of our own concern but certainly it is only what the distinguished jurist is entitled to, the privilege of the floor of this Convention on a subject so vitally affecting the interest of his court. I do hope you will grant him that privilege.

Mr. HULL (Cook). Were the judges of that court before the Judiciary committee? Were they ever heard?

Mr. DEYOUNG (Cook). All of the judges of the Municipal Court were invited to attend our meetings in Chicago and a number of them attended. The Chief Justice of that court was present on the first day when we had our hearings, all day long, and he was there a considerable portion of the day and addressed the meeting. On Saturday afternoon succeeding, the committee had another meeting in the City Council chambers in Chicago and again the chief justice of the Municipal Court was present, as well as other members of the court.

Mr. LINDLY (Bond). Did they address the Committee of the Whole?

Mr. DEYOUNG (Cook). One of them addressed the Committee of the Whole in a fair statement on behalf of the entire court; several of the justices of the Municipal Court appeared before the committee in the committee room on the fifth floor of this building.

Mr. HULL (Cook). I would like to ask the chairman of the committee whether he wants to make any recommendation in reference to this motion?

Mr. DEYOUNG (Cook). I care not to make any recommendation. I think I understand what the question is about. I have been informed that the objection that is argued is to the fact that the Chief Justice of that court, if this provision prevails is to be selected by the Supreme Court. It is a provision that is not peculiar to the Municipal Court but applies to the Circuit as well. No complaint was heard from the Circuit Court as far as I know.

Mr. WOODWARD (Cook). I might add that one of the judges of the Municipal Court in a conversation with myself a few days ago made this further objection; they are objecting to the power that is given the Supreme Court to assign the judges of the district court, that shall sit in the criminal branch; it seems to have created quite a little feeling there among the judges.

(Motion lost.)

Mr. HAMILL (Cook). I move you, Mr. Chairman, that we do now recess until nine o'clock tomorrow morning.

(Whereupon a recess was taken until nine o'clock Wednesday, December 1st, A. D. 1920.)

WEDNESDAY, DECEMBER 1, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

The president in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The journal of Monday, November 29th, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the journal of Monday, November 29th, will stand approved.

Special orders of the day; reports of standing committees. There are on the table a few reports from the Committee on Miscellaneous Affairs, a report from the Committee on Agriculture, and a report from the Committee on Schedule. The rules committee recommends that the several proposals referred to be taken from the table and placed on the general orders, and I submit that report accordingly. The question is upon the adoption of the report of the Committee on Rules and Procedure.

(Report adopted.)

THE PRESIDENT. Any further reports of standing committees? Select committees; first and second reading of proposals; motions and resolutions; unfinished business; general orders of the day.

Mr. LINDLY (Bond). Mr. Chairman, I am requested by the honorable delegate from Will, chairman of the sub-committee, to make a statement to the Convention and the chair that they will not be ready to take up the general order of this morning until two o'clock. I, therefore, move that the consideration of this order be postponed until two o'clock.

(Motion carried.)

Mr. LINDLY (Bond). Mr. Chairman, may I also say that he requested me to state that the down State members are requested to meet in the judiciary room at eleven o'clock today.

THE PRESIDENT. General orders of the day. The legislative apportionment was set for this morning, but that has been postponed until two o'clock. There are, however, a number of miscellaneous matters which are on the calendar, and which can conveniently be disposed of at this time. The President would suggest that the Convention resolve itself into the Committee of the Whole for the purpose of considering the several of these miscellaneous matters, namely, proposal number 355 relative to the encouragement of forestry, proposal number 224 relative to dealing in stocks by margins, proposal number 342, relative to double pay for public officials, proposal number 382 relative to amendments to the Federal Constitution, and proposal 297 relative to public records and making transcripts from public records. Those proposals can very conveniently be discussed and considered at this time. If there is no objection, the Convention will resolve itself into the Committee of the Whole for the purpose of considering those various proposals relative to the matters which are reported by the Committee on Miscellaneous Affairs, and the chair will designate Delegate O'Brien to act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole with Delegate O'Brien in the chair.)

CHAIRMAN O'BRIEN. The clerk will please read proposal 382 recommended by the miscellaneous subjects committee for approval of the Convention.

(Proposal 382 read.)

Mr. COOLLEY (Vermilion). Fully believing that any grave question may well be submitted to a referendum I offered proposal number 382 in

good faith. The desirability of electing a General Assembly which was to vote upon a federal amendment, after and not before the potentialities of that amendment were fully understood by the people, is self evident. Such a procedure would be eminently fair. It being the function of a Constitution to limit the powers of the legislature this appeared to me to be a desirable and proper limitation.

It appears, however, that since the proposal was offered by me the Supreme Court of the United States has rendered a decision in an Ohio case which seriously questions its constitutionality. The facts as recited to me by Mr. E. J. Verlie of the Legislative Reference Bureau are these:

"Prior to the submission by Congress of the prohibition amendment, the people of the State of Ohio adopted an amendment to the Constitution of that state providing that all resolutions of the legislature of that state purporting to ratify amendments to the Federal Constitution should be subject to a referendum. The prohibition amendment was ratified by the Ohio legislature and was submitted to a referendum, at which referendum it was rejected by the votes of the people. The United States Supreme Court held that the ratification by the Ohio legislature was binding and effectual, and that the provision in the Ohio State Constitution providing for a referendum on resolutions of the Ohio legislature ratifying amendments to the Federal Constitution was invalid."

While not identical, this decision would seem to indicate that no State has a right to impose upon its legislature restrictions pertaining to the ratification of a Federal amendment. I therefore move you, Mr. Chairman, that this proposal lay upon the table.

Mr. HULL (Cook). I would like to ask the gentleman a question. I am rather in sympathy with his conclusions. Do I understand the court says that the State cannot by its own Constitution limit the action of its legislature in considering a proposed amendment to the Federal Constitution?

Mr. COOLLEY (Vermilion). No, the court held that the State could not restrict its own legislature in ratifying a Federal amendment. It brings us at variance with the Federal Constitution.

Mr. HAMILL (Cook). May I ask a question, doctor? If I understand you rightly, your reason for moving to lay this upon the table is that the Supreme Court of the United States held that an amendment to the Federal Constitution could not be the subject of a referendum?

Mr. COOLLEY (Vermilion). Not that. That we have no right to impose restrictions upon our legislature in regard to their action upon a Federal amendment. We might say, for instance, that no amendment to the Federal Constitution could be ratified for 40 years. It would create an impossible situation.

Mr. HAMILL (Cook). But the only thing the Supreme Court held in that case, if I recall it correctly, was that under the Federal Constitution, which provides that amendments may be made and ratified by the legislatures or the legislative bodies of a certain percentage of the States, it was not competent for a State to require approval on a referendum, because when the Federal Constitution said "legislature" it meant legislature as conceived of in the time when the Constitution was adopted. Now, I would agree with you, sir, that you could not make the approval by the State of an amendment to the Federal Constitution dependent upon a vote of the people, but I do not agree that it is incompetent for this State to say within some reasonable time the legislature must postpone action. It does not follow from that Ohio case.

Mr. COOLLEY (Vermilion). What would occur if a legislature now sitting should insist upon ratifying a Federal amendment and disregarding our constitutional provision? That is the situation that appears to be outstanding.

Mr. HAMILL (Cook). I should question very much whether such an approval would be the approval required by the Federal Constitution. You might just as well say, supposing a majority of the legislature should undertake to approve and should certify approval, what would be the effect then?

The legislature must act within the power permitted it by the instrument under which it exists, and it would exist under this Constitution, and if this Constitution says that it could not act until after a general election upon a Federal amendment, I believe that would take it out of the power of the legislature to act before then, and it could not act even under that requirement of the Federal Constitution which requires the Federal amendment to be submitted to a legislature. The question is not free from doubt and I have not given it very careful consideration. I had not anticipated the mover of this proposal would withdraw it.

Mr. COOLLEY (Vermilion). I was only proposing to do so because I felt that it would place us in an illogical position. I am certainly in favor of the principle involved here if it is sound.

Mr. HULL (Cook). Mr. Chairman, I am in sympathy with the conclusion at which the gentleman arrives with reference to this proposed amendment, and not in sympathy with the amendment. I can understand the point of view of the members of this Convention who believe that no proposed ratification of a Federal amendment should take place until an election of members of the legislature shall have taken place. I think that there is some wisdom in that point of view. It would make the question then an issue in the election, and it is presumable that the legislature would be registering the public opinion at the time, but there is nothing to prevent a legislature postponing its action on any moot question until some subsequent legislature has been elected, and it is conceivable that in the emergencies of war or in some great situation or crisis an amendment might be desired and the ratification of it might be desired before a new legislature could be elected, and the effect of this amendment, if it is adopted, and if it is valid,—I am doubting whether it is valid in view of the opinion quoted by the gentleman from Vermilion—but in the event of its being a possible amendment which we could adopt, it is a restriction upon our acting which might be an embarrassment instead of being an advantage, and there is no time in the case of the submission of any amendment to the Federal Constitution where the legislature cannot postpone its own action. For that reason I am in sympathy with the conclusion of Dr. Coolley that the amendment ought to lie upon the table, and I am inclined to believe that the logic of the decision which he has quoted would carry you to the conclusion that we could not restrict the action of our legislature in respect to the ratification of a proposed amendment to the Federal Constitution.

CHAIRMAN BRANDON. Does the gentleman from Vermilion have any objection to changing his motion in order that we might not have any parliamentary question, that the motion be that the committee recommend to the Convention the ratification or rejection of proposal 382, instead of laying it on the table?

Mr. COOLLEY (Vermilion). No, not the least.

CHAIRMAN BRANDON. The question arises upon the motion of the delegate from Vermilion that this committee recommend to the Convention that proposal number 382 be rejected.

Mr. HAMILL (Cook). It seems to me that the experience we have had in the last four years is a very clear demonstration of the wisdom of some such provision. Practically every state in this union, when it was in a condition of hysteria during the war, voted into the Federal Constitution an amendment which is the most serious blot on that instrument that has ever been put on it, the invading by the amendment of those functions of government which from the beginning of this country have been considered functions of the State government, and it was done without consideration, under the sentiment that the country needed to be protected against the saloons—and it did—but it was, in my opinion, the most unwise thing that was ever done. I am not speaking from the standpoint of whether one is wet or dry. I am speaking from the standpoint of a man who is interested in the sound theory of government, and the sound theory of government should deny to the Federal government regulation of domestic affairs, and I do not believe that the wet-dry amendment had that consider-

ation in this State or any other state which the seriousness of its character deserved. I believe, gentlemen, that we would wisely say to our General Assembly, when you have under consideration an amendment to the Federal Constitution, that it is of sufficient importance so that the decision on it should be postponed until the people have an opportunity of expressing themselves at the polls, not directly on the question, but by an expression which is consistent with representative government, the selection of the members of the General Assembly who are going to vote on it.

I am in favor of the resolution. I do not believe the Ohio case invalidates it.

Mr. DUPUY (Cook). Mr. Chairman. I would like to say a word in favor of the adoption of this resolution. I introduced a proposal somewhat to the same effect, but providing for a popular referendum on the subject before the legislature could act. I understand the effect of the Ohio decision was to invalidate, probably the proposal for a popular referendum. I am not especially partial toward the Initiative and Referendum, as some of you know, but I believe that this is a thing that the people ought to have had a chance to say about before adopting an important matter like an amendment to the Federal Constitution. I agree very heartily with what Mr. Hamill has said. If you recall, you will remember that on some of these late amendments to the Federal Constitution the states have vied with one another in being the first, or being the one that would ultimately complete the number in getting under the line as quickly as possible in things of the greatest importance, deserving consideration, deliberation, cool judgment, and there wasn't much of it exercised in either of the two last cases that came before the legislatures of the different states.

Now, what possible harm can there be in a proposal like this? I think it is a good thing that when an amendment to the Federal Constitution is proposed, that we should have a chance to think it over, instead of the legislatures entering into mad competition with each other to see which should be the first to ratify the proposed amendment, or the one to complete the necessary number to make it effective. I am sorry to see the motion made that this matter should be disposed of adversely. I would like to see the pending motion voted down and see this proposal adopted substantially in the form that it is proposed. I think it is a move in the right direction. I think it can do no possible harm in any event, and it may save us from ill-advised and hasty action.

Mr. DUNLAP (Champaign). Without reference to the wisdom of the action that was taken recently on the two amendments, I think we ought to consider whether this Constitutional Convention should step in here and undertake arbitrarily to postpone possibly for two years the enactment of some amendment to the Constitution with a theoretical idea that the people are going to act upon that at the election. It is fair to presume that this Constitutional Convention would act upon a matter that naturally comes before it in the course of its business just as intelligently as though that proposition had gone out to the people and had been ratified in the election of another membership to a Constitutional Convention. Now, the proposal here submitted means that the legislature that might be in session a year and a half after this amendment was adopted by Congress, that that General Assembly could not act upon the proposition, if the action were taken in a time that elapsed between the submission of the article or amendment and the time of the convening of the legislature. That would postpone it from two to three years so far as Illinois was concerned. No one will dispute I think the wisdom in Illinois, at least, of ratifying the amendment conferring universal suffrage upon the women of this State.

Mr. HAMILL (Cook). I do.

Mr. DUNLAP (Champaign). Well, I believe that may be true, but I am speaking now of the people. You are talking about the rights of the people to pass upon this proposition, and I am satisfied that the people of Illinois, if they had passed upon that proposition of woman suffrage, would have ratified it by a very large majority, so why not leave to the intelligence of the members of the General Assembly that might be in session the

question of whether they want to ratify it or whether they want to postpone it? Everybody knows that a member of the legislature is about as nearly in touch with his constituents as any convention that can be assembled, and he knows that if he wants to be re-elected, that he has to come before his constituents for their indorsement of his actions at the previous session of the General Assembly. Therefore, he just as naturally represents the feelings of the people in his district as though it had been submitted to them.

Now, if you are not to have a referendum vote upon the proposition in advance of action of the legislature, I can see no particular advantage in having this embodied in our Constitution. It is a question of judgment of the members of the General Assembly, and I believe that one General Assembly is about as intelligent as any other General Assembly. I do not believe that this would be any advantage at all in deciding a question of a constitutional amendment to the Constitution of the United States. I do not believe we would get any safer action under this than we would get in submitting it in the ordinary course of events, because unless it was a matter of paramount importance, the people would not pay any attention to it in the election of the members to the General Assembly. Theoretically this might be a good thing, but practically I believe it would be a hindrance, and it ought not to be incorporated in our Constitution.

Mr. COOLLEY (Vermilion). Mr. Chairman, I wish to change my motion to the motion I should have made in the first place, that this be adopted, if I may have that privilege, because I am for this principle involved, and as I have here said, if it is sound I am for it. I was simply withdrawing it because I was led to believe by the opinion which I have read that it was unsound. Now, if it is to be debated here upon its merits and has friends, I propose to be enrolled among them.

Mr. HULL (Cook). I would like to ask a question of the gentleman from Vermilion, whether he would be willing to submit the question of the validity of any such proposed amendment to the Attorney General for his opinion before action is taken upon it in this Convention?

Mr. COOLLEY (Vermilion). Let that be brought out here, Senator. I am simply acting according to the best information that I can get.

Mr. HULL (Cook). I was going to make that suggestion for the purpose of getting the judgment of the Attorney General on the validity of this proposed amendment. I don't think that we want to adopt an amendment that upon careful consideration we would conclude that it is not consistent with the Federal Constitution, and we have time enough to get advice on that subject, and I was simply suggesting that course of action.

CHAIRMAN BRANDON. It would be all right, Senator, if that investigation could be made between readings, so as to get it out of the present status, and get it out of the way.

Mr. HULL (Cook). It is all right if the Convention wishes to take that action.

CHAIRMAN BRANDON. The gentleman from Vermilion desires to change his motion, and substitute for it a motion that this be adopted. Is there anything further?

Mr. MOORE (Macon). I am in favor of this proposal. Federal constitutional amendments ought never be in such emergency that there is ever any particular hurry to adopt them, and if there is strong sentiment in favor or strong sentiment against that amendment, it ought to have an opportunity to express itself, and I think that it would be a very proper thing to see to it that the legislature is elected with reference to the question of the amendment at all times. I hope the motion of the gentleman from Vermilion will prevail.

CHAIRMAN BRANDON. Having heard no objection to the request of the gentleman from Vermilion, the question now arises upon the motion of the gentleman from Vermilion.

(Motion carried.)

CHAIRMAN BRANDON. We now come to proposal 297 which the clerk will read.

(Proposal 297 read.)

Mr. DUPUY (Cook). I move that the report of the committee be approved, and the proposal rejected. I would like to say a word in support of the report of the committee that this be rejected.

You will observe that this proposal is that no person, firm or corporation, shall take data, transcribe copies or use information contained in public records for gain or profit. I do not conceive that the proposal has merit. It would put all abstract making concerns out of business. It would hamper the methods now prevalent or destroy them in obtaining information regarding titles to real estate. It would prevent any lawyer from going over and examining records and making up an abstract of title or obtaining any information, from making such a charge. Now, certainly, it is contrary to all our notions about the use and object of public records, and would make a change and revolutionize our present methods of doing business. I think the proposal ought to be rejected and have so moved, and I hope the motion will prevail.

Mr. PINCUS (Cook). Mr. Chairman, I am the mover of this proposal. I first spoke to the chairman of this committee and told him I was in favor of the committee's report, but after hearing the defense upon which they based their report, I seemed to have changed my mind, and the only defense they have is that that will put the abstract trusts out of business. Why, that is an argument in favor of this proposal being accepted.

(Motion carried.)

CHAIRMAN BRANDON. The clerk will read proposal number 224.

(Proposal 224 read.)

CHAIRMAN BRANDON. You have heard the reading of proposal 224. The recommendation of the committee is that the proposal be rejected.

Mr. KUNDE (Cook). Mr. Chairman, I introduced this resolution, and I want to say to the delegates present here that I do not intend to stand here and pose as a reformer. I never was in favor of laws prohibiting any form of gambling, because I believe that we ought to have our liberty as far as gambling or any other form of pleasure is concerned, in the State of Illinois, but owing to the fact that your present Constitution now prohibits gambling with dice, gambling with cards, betting on horse races, and all other forms of gambling, I believe that this Constitutional Convention should adopt this resolution of mine and do away with the worst form of gambling that has ever existed in the State of Illinois. If you are going to allow gambling on foodstuffs, then I believe this Constitution should reject any other amendment in this Constitution that prohibits any form of gambling. Therefore, Mr. Chairman, I move you that the report of the committee lie upon the table.

CHAIRMAN BRANDON. Would you object, Mr. Kunde, to changing that motion for parliamentary reasons, and making it provide that the report of the committee be rejected and the proposal adopted?

Mr. KUNDE (Cook). I will make that motion, Mr. Chairman.

CHAIRMAN BRANDON. The question arises upon the motion of the gentleman from Cook, Mr. Kunde, that the report of the Committee on Miscellaneous Subjects be rejected, and that proposal number 224 be adopted.

(Motion lost.)

Mr. WHITMAN (Boone). I move that the report be concurred in and the proposal rejected.

(Motion carried.)

CHAIRMAN BRANDON. The clerk will read proposal number 342.

(Proposal 342 read.)

CHAIRMAN BRANDON. You have heard the reading of proposal 342. What is your pleasure? The recommendation of the committee is that the proposal be rejected.

Mr. CARLSTROM (Mercer). I think, Mr. Chairman, that we should be very hesitant about disposing of this, because I understand there is a general feeling that the members of this Convention having expended their salaries long since will seek additional pay.

Mr. HAMILL (Cook). I move, Mr. Chairman, that the committee's report be approved and the proposal rejected.

Mr. HULL (Cook). Isn't the same subject matter covered in some other provisions? I will address that question to Mr. Hamill. Isn't the same subject matter covered in some other part of the Constitution?

Mr. HAMILL (Cook). Substantially, yes.

(Motion carried.)

CHAIRMAN BRANDON. That disposes of all of the proposals submitted to the Convention this morning by the Committee on Miscellaneous Subjects. There is one other to be submitted, which I understand will be submitted by the Committee on Agriculture. A motion, therefore, is in order to rise and report.

Mr. DUPUY (Cook). If in order, I should like to move that the Attorney General be requested to furnish the Committee of the Whole an opinion in regard to the proposal adopted a few moments ago relating to amendments to the Federal Constitution. I think it would be proper that such a resolution be made.

(Motion carried.)

Mr. HAMILL (Cook). I move you, Mr. Chairman, this committee rise and report.

(Motion carried.)

Mr. BRANDON (Kane). Mr. President, the Committee of the Whole wishes to report that it has considered proposals 224, 342, 382 and 297, and has disposed of them. 382 was adopted and the others were rejected. I move that the report of the Committee of the Whole be adopted.

THE PRESIDENT. The chairman of the Committee of the Whole reports that the Committee of the Whole has had under consideration proposals numbers 224, 342, 382 and 297, and that the committee has adopted proposal 382 and recommends its adoption to the Convention, and that the committee has rejected proposals numbers 224, 342 and 297, and recommends their rejection by the Convention, and the question is upon the adoption of the report of the Committee of the Whole.

Mr. HULL (Cook). Mr. President, I believe the committee also passed a resolution requesting the Convention to ask the Attorney General for an opinion as to the validity of one of the proposals which was adopted, and I think that should be incorporated in the report of the committee.

THE PRESIDENT. The request of the committee that the Attorney General be requested to furnish the committee a report on the validity of proposal number 382 will also be incorporated into the motion.

Mr. MICHAL (Cook). Mr. Chairman, I think it is rather a departure from what I understand to be the regular routine of Constitutional Conventions. The idea does not seem to jibe, that we ought to go to the Attorney General and ask for his opinion. I did not know that the Attorney General's office was connected with the work of this Convention in any way. I think this Convention has enough able men to determine whether a thing is right or wrong, and I don't think it is at all proper for this Convention to ask the opinion of the Attorney General.

(Motion carried.)

Mr. GALE (Knox). I desire to offer the report of the Committee on Revenue, Taxation and Finance, and ask it be placed on file.

(Adopted.)

Mr. HAMILL (Cook). I understand that there is going to be a meeting of the down State delegates at eleven o'clock, and I therefore move you Mr. Chairman that we do now recess until two o'clock.

Whereupon a recess was taken until two o'clock p. m., December 1st, A. D., 1920.

2:00 o'clock P. M.

Convention met pursuant to recess.

THE PRESIDENT. The Convention will please be in order. Under a motion adopted this morning, this is the hour set for the consideration in Committee of the Whole of the report of the Committee on Legislative Apportionment. The Convention, therefore, will resolve itself into the Com-

mittee of the Whole for the purpose of considering that report. Mr. Shanahan is delegated to act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole with Delegate Shanahan in the chair.)

CHAIRMAN SHANAHAN. The Committee of the Whole will come to order. Proposal number 366 was reported by the Committee of the Whole to the Convention and its report was adopted by the Convention. It was afterward on motion reconsidered by the Convention and re-referred to the Committee of the Whole. Proposal 366 is again before the Committee of the Whole.

Mr. BARR (Will). Mr. Chairman, I move you that the vote by which proposal number 366, being the report of the Committee on Legislative Department, be reconsidered.

(Motion carried.)

Mr. BARR (Will). Mr. Chairman, I move you that the vote by which section 6 of the report of the Committee on Legislative Department was adopted, be reconsidered, taking it section by section as the vote in the Committee of the Whole was first taken section by section.

(Motion carried.)

Mr. BARR (Will). Mr. Chairman, I offer a substitute for section 6 that is now before the Committee of the Whole, and ask that it be adopted as section 6 by the Committee of the Whole as a part of its report.

CHAIRMAN SHANAHAN. The secretary will read the substitute offered by the gentleman from Will.

(Substitute section 6 read.)

Mr. BARR (Will). Mr. Chairman and gentlemen, I do not desire at this time at least to make any special talk upon section 6, but I do desire to state to the Committee of the Whole the proposals or propositions that will be offered by the sub-committee from down State in connection with this report of the Committee on the Legislative Department, so that in considering the various sections or the two sections under consideration, the members of the committee may be advised as to the other sections that will be offered and the resolutions following. It is the desire of the sub-committee—now, referring at each time to the sub-committee composed of the down State members of the legislative committee—to offer the views of the down State members as to what should be contained in the provisions of the Constitution pertaining to apportionment with reference to section 6 and section 7.

Section 6 is practically in the same language as was the section contained in the report of the committee. Section 7—I am not going to discuss it, but simply explain the purport of it in order that the members may understand what it contains at this time, thinking perhaps it might be a matter of desirable information at least—section 7 will be later offered as a substitute for section 7 of the report as adopted by the Committee of the Whole and provides for what is termed county representation in the lower house of the General Assembly. In brief it provides that there shall be one representative in the lower house of the General Assembly from each county in the State and that in addition to that, each county having a population of 50,000 or over shall be entitled to an additional representative for each additional 50,000 or major fraction thereof, including all of the counties, with no limitation upon the number of members in the house based upon that ratio of 50,000 people.

My recollection is that the figures, as near as we could gather them, were based upon the last census. This section, if adopted, will provide for a house of about 174 members, 102 of whom will come as one from each county, 62 additional ones from Cook county, and 10 additional ones from the counties down State which are entitled to additional members over the one member. I think there is just one county down State that will be entitled to three members, and perhaps eight or nine that will be entitled to two members.

In addition to section 7 providing for the county representation, the sub-committee will offer to the Committee of the Whole a resolution

providing for the submitting to the people with the Constitution, as a separate provision, a section 7, which, if it receives the votes provided to be received by the Committee on Schedule,—I assume a majority of the votes cast—will be substituted for the section 7 that we expect to offer, to become a part of the report of this committee, to be a part of the Constitution. This article which it is the desire of the committee to have submitted separately provides for no limitation upon the representation of Cook county in the lower house, and it is, I think, practically identical with the section pertaining to the apportionment in the House of Representatives as submitted by the sub-committee from Cook county as section 7. We will therefore follow up the motion to substitute this amendment as section 6 by a motion to substitute section 7, and a motion to have submitted a separate article as outlined.

Delegate Mighell has compared section 6 with the provisions of section 6 in the report, and I would be glad if he would point out the little differences there may be so that the members of the committee may be advised as to exactly the language in this proposed section 6 as compared with the section for which it is asked to be substituted.

I move the adoption of section 6 by the Committee of the Whole as a substitute for section 6.

CHAIRMAN SHANAHAN. The delegate from Will moves the adoption of the substitute offered for section 6.

Mr. MIGHELL (Kane). Gentlemen, I do not rise to make any argument in regard to this section. We have had this section practically in the form that it is here given to us before this committee in June, and we debated it for nearly two days. The arguments that were then made in favor of it are in our record and still stand, but there are about three slight changes made which it is wise to have your attention directed to.

The first change made is in the first line of the old section which read "every 12 years" in reference to the apportionment that should be conducted by the General Assembly. Now, this has been changed to ten years in the section which is presented to you today. The reason for that change is this: It was originally twelve for the reason that this section is based on the electors or vote for governor, and as that vote for governor comes every four years, twelve would be a better number than ten, and would follow immediately one of those gubernatorial elections. Now, in the section which will be presented to you as section 7, the basis for apportionment is not electors or voters, but is population, and as that population is based upon the federal census, it occurs every ten years, and it was thought inadvisable to have an apportionment every twelve years when the figures on which the apportionment would be made would come to us every ten years; and, consequently, it was thought less serious to change the twelve years to ten years than to change the ten to twelve, as it was thought desirable to have both apportionments made by the General Assembly at the same time. If this change was not made, it would be necessary for the legislature or General Assembly to make an apportionment for the Senate and perhaps at the next session to make one for the House, and there would be just twice as many apportionments to be handled, and as we know, they are delicate things to handle.

The second charge that is made is in regard to when the General Assembly shall make this first apportionment. The provision of section 6 as it was before us last June read that beginning with the year 1921 this apportionment should start. Well, now, it becomes evident to us that we are not going to get our Constitution adopted, so that the legislature or General Assembly for the year 1921 will be able to act on this matter. Therefore we thought it was necessary, and it seems absolutely necessary, to my mind, that it should read in a different manner, and the reading, as you see it before you now, is that at any session which may be then pending, or if none, then as its first session following the adoption of this Constitution, the General Assembly shall make its first apportionment. Then that follows by saying that the second apportionment shall be made in 1931,

which is not necessarily ten years after, but which follows the first federal census which we will have in the future.

Now, those are the principal changes. There is one other change made I see, and that is in three or four different paragraphs the word "electors" has been eliminated and the word "voters" placed in the document in its place. There was no reason, as I understood, for that except one, and that is that some of the men who were considering the matter thought that the people would understand a little more promptly the meaning of the word "voters" than the word "electors." Some people are of the opinion that "electors" refer to presidential electors, and there might be a slight confusion in the minds of some of the people who had to vote. Consequently, everybody knows what "voters" mean, and it is a simple word, and we thought for the sake of simplicity we would change the word "electors" to the word "voters." I see no other changes here.

CHAIRMAN SHANAHAN. Any other discussion upon the substitute offered by the gentleman from Will?

Mr. HAMILL (Cook). Mr. Chairman, I would like to ask some questions of the delegate from Will, if I may. Section 6, as I understand it, will call for 57 members of the Senate?

Mr. BARR (Will). That is correct, yes, sir.

Mr. HAMILL (Cook). That is four more than the present number?

Mr. BARR (Will). Six more.

Mr. HAMILL (Cook). Yes. And the section, if adopted, would award all six of those additional senators to that portion of the State outside of Cook, would it not?

Mr. BARR (Will). I would gather so from the reading of it, yes, sir.

Mr. HAMILL (Cook). You have been perfectly sure and careful that none of them should get into Cook, have you?

Mr. BARR (Will). Well, I think there is not much misunderstanding of the language; that is true.

Mr. DEYOUNG (Cook). There is no increase in the number of senators from Cook county under this arrangement over what is now. Is that true?

Mr. BARR (Will). That is correct.

Mr. DEYOUNG (Cook). And you increase the number of senators from 51 to 57 and give them all to the State outside of Cook county?

Mr. BARR (Will). That is correct.

Mr. DEYOUNG (Cook). Cook county today is under-represented according to population. In 1910, as I understand it, it was entitled to at least two additional senators.

Mr. BARR (Will). I think it would be entitled to more than that.

Mr. DEYOUNG (Cook). And by the census of 1920 it is probably entitled to 23 or 24 senators today.

Mr. BARR (Will). If population is the only basis.

Mr. DEYOUNG (Cook). Yes. Under the present Constitution, if there had been a re-apportionment, or if there were one now, Cook county would be entitled to probably 5 more senators than it has?

Mr. BARR (Will). I think you are probably right.

Mr. DEYOUNG (Cook). Notwithstanding that, you have left by this proposal the representation of Cook county in the Senate at the same number that is now the case, and you add six senators to the State outside of Cook county.

Mr. BARR (Will). That is absolutely correct.

Mr. MAYER (Cook). Mr. DeYoung, what would that give Cook county?

Mr. DEYOUNG (Cook). One-third.

Mr. MAYER (Cook). Nineteen in number.

Mr. CUTTING (Cook). It is more than a third now.

Mr. DEYOUNG (Cook). Nineteen out of 51 is more than 19 out of 57.

Mr. MAYER (Cook). If it were increased, it would give Cook county at least 19.

Mr. DEYOUNG (Cook). And it leaves the number in Cook county to what it has been since 1900. From 1900 Cook county has had 19 senators, as I understand it—1901, to be exact.

Mr. BARR (Will). Yes.

Mr. DEYOUNG (Cook). The last apportionment was in 1901 or nearly 20 years ago.

Mr. DAVIS (Cook). Would Mr. Barr care to tell the committee the particular reason why Cook county has been so honored in the draft?

Mr. BARR (Will). Well, if it is honored, then it must have been because we considered that 19 from Cook county would be at least equal to 38 from down State, but it was the view of the committee that for a single district of the geographical size or a portion of the State of Cook county's size, notwithstanding its larger population, one-third of the representation in the Senate was a fair and equitable representation and that in the interests of the State at large, including Cook county.

Mr. MAYER (Cook). Are there many provisions in the Constitution that require a two-thirds vote of the Senate, of all the members, aside from amendments to the Federal Constitution?

Mr. DEYOUNG (Cook). All emergency acts.

Mr. BARR (Will). I think about all are the emergency acts and amendments to the Federal Constitution provision. Now, there may be some others, but I am not able to say offhand.

Mr. CUTTING (Cook). It requires that to pass an act for a new Constitution.

Mr. MAYER (Cook). The purpose of my question, Mr. Barr, is very patent. My mind is not made up. I was at no caucus last night, and I want to get some information. Is there any secret purpose in fixing the down State representation in the Senate to at least two-thirds of the total Senate?

Mr. BARR (Will). Absolutely none whatever. If there is any provision in the Constitution or in this Constitution that might indicate that there was any purpose other than the simple purpose of limiting representation, then the committee had no such idea in mind.

Mr. MAYER (Cook). And two-thirds of the total membership is only needed in case of emergency legislation and in case of an amendment to the Federal Constitution?

Mr. BARR (Will). I think that is correct, Mr. Mayer.

Mr. MAYER (Cook). Will that also continue in perpetuity until there is a change in the Constitution?

Mr. BARR (Will). I think the provisions of this Constitution make the same provision with reference to emergency legislation, and as to the adoption of the Constitution, that naturally follows.

Mr. MAYER (Cook). What I mean is that the 19 senators allotted to Cook county, and the two-thirds of the total allotted to the rest of the State, that proportion will continue always until the Constitution is changed?

Mr. BARR (Will). Yes, sir, it never changes.

Mr. MAYER (Cook). And we cannot change the Constitution by a two-thirds vote?

Mr. BARR (Will). That is correct.

Mr. McEWEN (Cook). I would like to ask whether the increase of six is justified or based upon any increase of population outside of Cook county, or was that increase just taken arbitrarily?

Mr. BARR (Will). I think in a limited sense of the word "arbitrary" you may say it was arbitrarily taken, in the sense that there was no definite figuring that brought about that result.

Mr. McEWEN (Cook). The substantial effect of it is to, by a fiction, transfer some of the population in Chicago to down the State?

Mr. BARR (Will). I don't think there was any intention, either by fiction or otherwise, to transfer the population.

Mr. McEWEN (Cook). If the fiction had been necessary, however, there would not have been any reason why it would not have been indulged?

Mr. BARR (Will). We would have been delighted to have some of the population of Cook county down in the other parts of the State.

Mr. McEWEN (Cook). You are really seeking to adjust some unjust inequality, that you feel down State that the people in Chicago who live there in large numbers ought to move down State.

Mr. BARR (Will). No, I think not, I think there is not any such idea. I think if we were to transfer the population down State for the population now in Chicago, we would feel as though the limitation should be exactly the same as provided for in this provision.

Mr. MILLER (Cook). Provided you were not transferred.

Mr. BARR (Will). Well, I would not say that.

Mr. RINAKER (Macoupin). May I ask a question of the chairman of the committee? Is it not a fact that in arriving at the figure 19, it was the desire of the sub-committee considering the matter to not reduce the actual number of senators now elected from Cook county?

Mr. BARR (Will). It was considered that Cook county's representation in the Senate should not exceed one-third of the membership of the Senate, and that the number that Cook county already had should not be reduced, and therefore, to avoid reducing the number and still reduce the proportion,—don't let me for one moment pretend to beat around the bush at all; I am going to be perfectly frank about this matter—and in order to make the number one-third, it was necessary to either cut down Cook county from 19, or increase the down State, and so we increased the 51 to 57.

Mr. HAMILL (Cook). What was the idea of making it one-third exactly?

Mr. BARR (Will). The committee considered and does now consider that no section of the State the size of Cook county, or any other county of that size, should have more than one-third of the members in the Senate.

Mr. HAMILL (Cook). If it was smaller, ought it to have more?

Mr. BARR (Will). No, I think not.

Mr. HAMILL (Cook). If it were larger, ought it to have more?

Mr. BARR (Will). Perhaps.

Mr. HAMILL (Cook). Why, then, do you tie it down to that particular limitation for all time?

Mr. BARR (Will). We limit it, however, to the boundaries of Cook county.

Mr. HAMILL (Cook). Yes, but that does not answer the question. I understood you to say that if Cook county were larger, perhaps it would be entitled to more.

Mr. BARR (Will). Considering the present population and the geographical boundaries of the county, we considered that that is a reasonable representation, and we feel that in the Senate, no matter how much more population Cook county may have, that it should not have more than one-third of the members in the Senate.

Mr. HAMILL (Cook). I am just trying to get at what induced you to adopt this particular provision of one-third. Why not a quarter?

Mr. BARR (Will). We thought a quarter was not enough.

Mr. HAMILL (Cook). Well, now, can you give us any indication of what guided your thoughts as between one-quarter and one-third?

Mr. BARR (Will). Only the general idea of what was reasonable and fair, and we concluded that a third was about that amount.

Mr. HAMILL (Cook). Did you have in your committee room any machine for measuring fairness of fractions? How do you find out whether a third or a quarter is fair?

Mr. BARR (Will). We had a number of men who gave that as their judgment as to what was fair apportionment.

Mr. HAMILL (Cook). Did any one of them express himself as thinking that we ought not to have more than a third because votes could go through the Senate with two-thirds?

Mr. BARR (Will). No, sir. In the committee I think most of the members said out loud everything that they said.

Mr. MILLER (Cook). Was there any attempt to conceal the purpose announced by the gentleman from Macoupin?

Mr. BARR (Will). I don't think so.

Mr. CUTTING (Cook). May I inquire whether one-third was given to Cook so that when there was another proposition for a Constitutional Convention that none could be had if the down State people stood together, and that, therefore, the limitation of this Constitution is made perpetual?

Mr. BARR (Will). Unfortunately, or rather surprising as it may seem, that thought did not occur. There was no such thought expressed, and as far as I know, no such thought in the minds of any of the members of the committee. We assumed that if it was desirable to have a new Constitution, that there would not be lines drawn between Cook county and down State. That matter did not enter into the discussion whatever.

Mr. TRAEGER (Cook). Mr. Chairman, I would like to ask the delegate a question. Was any consideration given to tie that necessary expense on the taxpayers of unnecessarily adding six senators to the State of Illinois and giving them to the districts outside of Cook county?

Mr. BARR (Will). The matter of expense, I think, was not definitely considered. The reason of changing the number from 51 to 57, I think, was primarily as has been suggested, that it was not desired to cut down the number from Cook county below 19, although I am inclined to think the committee would not seriously object to a reduction of the Senate from 57 to 51 for the matter of economy, providing the ratio remained the same. In other words, the committee has no special desire that the number of 57 shall be retained, and if it is deemed advisable to reduce that number, I think there will be no serious objection from the committee down State.

Mr. TRAEGER (Cook). Does the committee realize that that is a great additional burden upon the taxpayers unnecessarily?

Mr. BARR (Will). No. Possibly a Senate of 57 might be reduced to 51, or may be reduced to 33 and give just as satisfactory results. It was thought that a Senate of 57 was not too large, and the expense was not too great, but that the ratio would remain one-third.

Mr. MILLER (Cook). Mr. Barr, may I ask you whether it is your idea that if this proposal should go through there would be put into the Constitution any provision whereby there might be an amendment or a Constitutional Convention without the consent of the down State portion of the State outside of Cook county?

Mr. BARR (Will). I had not thought about that.

Mr. MILLER (Cook). Well, you, of course, recognize that under the present Constitution that could not be done, don't you?

Mr. BARR (Will). Yes, sir.

Mr. MILLER (Cook). And, therefore, that unless there is a change in that respect as to either an amendment or a Constitutional Convention, this provision, purely by accident, I take it, would make necessary to have the consent of the down State people.

Mr. BARR (Will). There is not a county in the State or any quite large number of counties that could obtain amendments to the Constitution by their own representatives without the cooperation of other counties, or representatives from other counties in the Senate. I don't know why Cook county should be picked out with the privilege of amending the Constitution differently from any other section of the State.

Mr. MILLER (Cook). No matter what population it has, I take it.

Mr. BARR (Will). No, I don't think so.

Mr. HAMILL (Cook). I wonder if the gentleman would yield a moment if I make a suggestion to the committee?

Mr. BARR (Will). I am through unless I am asked questions.

Mr. HAMILL (Cook). Mr. Chairman, I think the questioning that has thus far occurred has demonstrated that there is not from Cook county a single person who feels any enthusiasm for the present motion. During the past few weeks I have received a good many communications from gentlemen of Cook county urging the adoption of some such plan as is here proposed, and I have seen very commonly about this hall and in the lobbies of the hotel, gentlemen representing the organizations which have been sending out that literature, and those gentlemen are now sitting in the gallery of this hall, and that they may enjoy to the full their triumph and that our

down State brethren may not be lonesome in the absence of any member from Cook county who subscribes to their plan, I move you, Mr. Chairman, that the representatives of the Anti-Saloon League be invited to come from the gallery and sit upon the speaker's platform.

Mr. BARR (Will). Mr. Chairman, I would like to ask the gentleman from Cook if the intended effect of his suggestions that this section was drafted in compliance with the suggestions of some Cook county or other organization in the State? If he has any such misapprehension as that, I would like to call his attention to the fact that as to this particular section there has been no change as to the basis of representation or as to the proportion of representatives from Cook county other than existed in the first report that the committee made, so that if there has been lobbying done—and I will say that there has been some on both sides—the committee has not changed its former decision or position in that respect. I am not particular whether the members from the Anti-Saloon League or any of the other leagues or organizations come down from the gallery and sit at the speaker's chair or otherwise. If it is the desire of the chairman to have that done, or the gentleman from Cook, it is perfectly satisfactory to us.

Mr. HULL (Cook). May I ask the gentleman a question? I want to get the full import of the answer you gave to Mr. Miller. Do I understand that you hold that if a county should have two-thirds of the population of the State within its confines, that it would not be entitled to call for a revision of the Constitution or for an amendment of the Constitution as against the united wishes of the other one-third of the population of the State?

Mr. BARR (Will). I don't catch your point.

Mr. HULL (Cook). Well, if it requires two-thirds to pass a resolution for a Constitutional Convention or for a constitutional amendment, and those two-thirds votes are within the control of the down State members, but one-third of the members of the legislature come from a county having two-thirds of the population, and they are asking for a constitutional amendment or a constitutional revision, that it should be impossible for them to have an amendment or have it submitted to the voters or have a Constitutional Convention as against the objections of the down State members in the General Assembly?

Mr. BARR (Will). Yes, sir, I do absolutely believe that no small section of the State should be able to do that.

Mr. HULL (Cook). Regardless of the size of its population?

Mr. BARR (Will). Absolutely regardless of its population.

Mr. HULL (Cook). I want to get that in the record.

Mr. DEYOUNG (Cook). May I ask the gentleman from Will a question? You say that regardless of population, even if Cook county should have three-fourths of the population of Illinois, the other quarter, clearly a minority, should control a revision of the Constitution in the future?

Mr. BARR (Will). I say that a section of the State of Illinois the size of Cook county should not have a larger representation in the Senate for any purpose, even if that would prevent its obtaining an amendment to the Constitution, whether its population was of the size that it now is, or even got to be two-thirds of the population of the State.

Mr. DEYOUNG (Cook). However, it might grow to be in the future?

Mr. BARR (Will). Yes, sir.

Mr. DEYOUNG (Cook). So that however the disparity of population of the State outside of Cook county to Cook county might ultimately be, in no event do you believe that the population of Cook county should have representation in the Senate exceeding one-third, which you provided here, a fixed proportion of one-third?

Mr. BARR (Will). Yes, sir, that is the view of the committee.

Mr. DEYOUNG (Cook). And if the effect of that limitation is not only to prevent the submission of proposed constitutional amendments in the future which might be quite desirable to the County of Cook, your view would still be the same?

Mr. BARR (Will). Yes, sir, it would.

Mr. DEYOUNG (Cook). No matter what emergency legislation might be necessary, likewise the view of yourself and of the committee is that notwithstanding the size of the population there, it ought in no event to exceed this proportion of one-third?

Mr. BARR (Will). I am assuming that if emergency legislation were necessary for any amendment to the Constitution, the joint houses of the legislature of Illinois would provide for such an amendment. I do not believe that any small section, no matter what its population might be, should have the power of providing for an amendment to the Constitution to be submitted to the people.

Mr. MILLER (Cook). You think the majority should rely on the benevolence of the minority?

Mr. BARR (Will). Is that for information or is it argumentative?

Mr. MILLER (Cook). No, no, for information. I am trying to search your conscience.

Mr. BARR (Will). I thought I had laid my conscience open.

Mr. DEYOUNG (Cook). In other words, the great majority of the population of the State you think should trust the minority to aid it in any emergency legislation that it might need?

Mr. BARR (Will). I think other things besides population should be taken into consideration, and I do not believe that any small section of the State the size of Cook county, no matter what its population is, should have any larger representation in the State senate than the proportions outlined in this section.

Mr. DEYOUNG (Cook). I understand. You have made that clear, but I also want to get from you whatever the effect of that limitation might be.

Mr. BARR (Will). That would necessarily follow.

Mr. DEYOUNG (Cook). Now, in the consideration of this pending proposal no member from Cook county had a part in it, as I understand it.

Mr. BARR (Will). No, this proposal was formulated by the members of the legislative committee from down State.

Mr. DEYOUNG (Cook). No member from Cook county participated in the discussions or in the drafting of the pending proposal?

Mr. BARR (Will). No, sir. I might state, Mr. DeYoung, that the chairman of the legislative committee, upon motion of the legislative committee, appointed two sub-committees, one from down State and one from Cook county, and the down State members of that sub-committee prepared a report, and the Cook county sub-committee prepared a report, and neither had any part in the preparation of the report of the other.

Mr. DEYOUNG (Cook). I am asking you to answer to the facts so far as this pending proposal is concerned: No member from Cook county had a part in its preparation at all?

Mr. BARR (Will). I so answered.

Mr. RINAKER (Macoupin). May I ask a question at this time in order to get further facts into the record? Is it not a fact, Mr. Chairman, that before any action was taken by the sub-committee on this re-submission of this section 6, that there were conferences between further sub-committees from down State with representatives of the Cook county committee, in which an effort was made to reach some common ground, and that that was found not to be possible?

Mr. BARR (Will). There have been from time to time so-called conference committees appointed by the down State sub-committee, and they have conferred from time to time with the representatives from the County of Cook, members of that committee, and I think they were never able to arrive at any agreement, and therefore this suggested section was prepared by the members of the sub-committee from down State, and as far as I know the Cook county members took no part in its preparation.

Mr. DEYOUNG (Cook). So that when we get all through, the fact still remains that the pending proposal was prepared, was conceived and drafted by members exclusively from the State outside of Cook county?

Mr. BARR (Will). Well, it was prepared by them. I would not be sure but what some of the ideas came from some members from Cook county,

although I don't know about that. I think it is in accord with the judgment of some people from Cook county.

Mr. DEYOUNG (Cook). You don't know that to be the fact.

Mr. BARR (Will). Well, I know it from being advised by many people.

Mr. DEYOUNG (Cook). You say members of this Convention from Cook county?

Mr. BARR (Will). No.

Mr. DEYOUNG (Cook). The question that I addressed to you was whether a member of this Convention from Cook county participated in the proposal made before the Convention, and I understand the answer is that no member of this Convention from Cook county had any part in the preparation of this proposal.

Mr. BARR (Will). Mr. DeYoung, will you examine the record to see whether or not I have answered that? There has been no member from Cook county that I know of that has taken part in the drafting of this proposal.

Mr. DEYOUNG (Cook). I have what is said to be the population of the State under the census of 1920, which shows the total population in Illinois of 6,485,119. I find from the same report the County of Cook has a population of 3,053,017. I have taken those figures and divided them by the number 19 in the case of Cook county's population, deducting Cook county from the rest of the State, and find these to be the results. Under your senatorial apportionment as proposed each senator from Cook county will represent 160,685 people, whereas in the remaining districts outside of Cook county the representation will be of 90,318 or a little over half of the representation for each senator from Cook county. You and the committee consider that fair?

Mr. BARR (Will). We consider that fair in connection with the fact that Cook county is a single county out of 102, with a comparatively small size as compared to the remainder of the State.

Mr. DEYOUNG (Cook). In other words, there has been in the deliberations of this committee no distinctions made so far as the character of the population is concerned, but because these large numbers were confined to a small area. That was the determining factor, as I understand it?

Mr. BARR (Will). I think that was the determining factor. I won't say that there were not some members who discussed the phase that you have suggested as to the general difference in population in a congested district of any size, whether a large city of two or three millions or a city of 50,000 as compared with a population more largely rural. I think that matter was discussed in the committee, but I think the controlling factor in the determination of the committee was not that fact, but the feeling that a small congested district consisting of one county should not have a larger representation in the senate than one-third.

Mr. DEYOUNG (Cook). In 1900 the population of Cook county was 1,838,735, upon which the present apportionment relating to Cook county, awarding to Cook county 19 senators, was based. You say now in your proposed draft that whereas the population is more than three million, or there has been actual increase in the intervening twenty years in the County of Cook of nearly a million and a quarter, you still say that the representation of Cook county, although it has been less than what it was entitled to in the last twenty years, must continue to be what it had twenty years ago, when it had less than two millions of population, and you and the committee believe that ought to be written in perpetuity in the proposed Constitution?

Mr. BARR (Will). We have offered that proposal, and that is what we think, that notwithstanding the fact the population is largely increased when the representation of the county has reached 19 or one-third, it should not under any circumstances be increased so that its proportion will exceed one-third of the total membership of the Senate.

Mr. DEYOUNG (Cook). In other words, whereas in the County of Cook there has been an increase in population in twenty years of nearly a million and a quarter, the representation in the Senate should not be increased, but

in the State where there has been an increase of less than half a million in twenty years, or speaking more accurately, 449,000, or about one-third what the increase was in Cook county, the representation must not remain stationary but must actually be increased by six members of the Senate?

Mr. BARR (Will). Of course, we have got to do with the representation that was the result of the apportionment in 1900, but we felt that the proportion should never exceed more than one-third to two-thirds for one county, no matter what its population might be, and we are basing this relative to the representation during the past twenty years, because we consider that in proportion to the total representation it was too much during the past twenty years.

Mr. DEYOUNG (Cook). Oh, Cook county had too much? You mean Cook county was really over-represented, or it should not have had as many senators as it had?

Mr. BARR (Will). I don't say under the Constitution they should not have had.

Mr. DEYOUNG (Cook). I am speaking apart from the Constitution now.

Mr. BARR (Will). Yes, sir. I think they never should have had more than one-third of the total representation in the senate.

Mr. DEYOUNG (Cook). Of course, you are aware that the County of Cook pays nearly one-half of all the State taxes, are you not?

Mr. BARR (Will). Yes, sir, I think that is true.

Mr. DEYOUNG (Cook). And you also believe that in view of not only the last twenty years of experience, but the future, that the County of Cook will continue to grow at least as rapidly as the rest of the State in population?

Mr. BARR (Will). I do.

Mr. DEYOUNG (Cook). And so do the members of your committee?

Mr. BARR (Will). I think they do.

Mr. DEYOUNG (Cook). And in view of the fact that Cook county now pays between 45 and 50 per cent of all the State taxes, and with the increase in population if it continues at the same ratio will pay probably a good deal more than half in the years to come, while this proposed Constitution will be in effect, if it is ratified, you still believe the representation in the Senate should be kept at one-third?

Mr. BARR (Will). We did not consider that representation in the senate should be based upon the wealth or the amount of property, necessarily.

Mr. DEYOUNG (Cook). I am not talking about wealth. I am talking now about contributions to the support of the State government,—taxes.

Mr. BARR (Will). That is based upon the taxing of property, which is another term for wealth.

Mr. DEYOUNG (Cook). In your view then, as well as your associates on the committee, the matter of representation in the senate, at least, and taxation, did not go together, or one of them had nothing to do with the other?

Mr. BARR (Will). I would not say that, but it was not a factor that we considered sufficient to change our view that it would be unwise, no matter what the wealth, no matter what the proportion of the taxes, and no matter what the population, to allow a single county out of 102 in this State, with its proportion of size to the balance of the State, to have more than one-third of the representation in the State senate.

Mr. DEYOUNG (Cook). You know that Cook county today pays more than two-thirds of all the inheritance taxes, do you not?

Mr. BARR (Will). I believe it is so.

Mr. DEYOUNG (Cook). Assuming it to be the fact, which the record discloses, and will probably pay a larger proportion in the very near future if we keep on?

Mr. BARR (Will). I don't know how fast they will die.

Mr. DEYOUNG (Cook). That, too, was not considered in fixing this proportion?

Mr. BARR (Will). No, we did not even look at that figure.

Mr. DEYOUNG (Cook). Nor any of the other contributions made by the County of Cook, for instance, to the public improvements of the State—none of those things were considered?

Mr. BARR (Will). No.

Mr. DEYOUNG (Cook). And it was the view of the committee, and it was its decision, as I understand it, that notwithstanding the burdens of government, notwithstanding the increase in population, however great it might become, at all events a minority of the population will have a two-thirds voice in the senate against an actual majority with a one-third voice?

Mr. BARR (Will). We believed, considering the fact that Cook county was one county and one community, considering its size in proportion to the balance of the State, that one-third representation in the Senate was a fair, and from a governmental point of view, a wise provision to make in this Constitution.

Mr. DEYOUNG (Cook). I understand it then, simply to reduce it to its lowest terms, that the concentration of a population, however great, within the confines of a single county, the fact that it was limited to such a small area is the dominating and controlling and determining factor in fixing this ratio?

Mr. BARR (Will). I would say that it was in fixing this ratio. Up to a certain percentage of representation, it would not be necessary to limit to a considerable degree. For instance, if there was another city in the other end of the State, perhaps it would not be necessary to use quite the same standard of limitation as to one of those cities as to both. In other words, the controlling factor was the fact that one small section of the State, one county, no matter what its population might be, no matter what its wealth might be, should never have more than one-third of the members, and especially where the membership was as small as 57.

Mr. DEYOUNG (Cook). Even if it resulted in the rule of the minority, it would not make any difference?

Mr. BARR (Will). If you want to put it that way.

Mr. FIFER (McLean). Mr. Chairman, I would like to ask the gentleman a question. What is the name of the committee that makes its report, the committee having it in charge?

Mr. BARR (Will). The committee on legislative department.

Mr. FIFER (McLean). Who was chairman of that committee?

Mr. BARR (Will). I assume that the committee will take official notice of the fact that Delegate Shanahan is the chairman of the general legislative committee.

Mr. FIFER (McLean). Yes. Well, now, that committee was composed of members from Chicago and down State members, wasn't it?

Mr. BARR (Will). Yes, Cook county and down State. I think possibly there were some from Cook county that were not from Chicago.

Mr. FIFER (McLean). When this committee reached the question of apportionment, it was proposed that two committees be appointed, one composed of the members of the committee from Cook county or Chicago, and the other sub-committee from the members of this committee from down State, isn't that true?

Mr. BARR (Will). Well, that proposition was made. I don't know who made it, Governor.

Mr. FIFER (McLean). Well, there was no controversy about it?

Mr. BARR (Will). I don't think there was.

Mr. FIFER (McLean). And the chairman made an entry of it, didn't he?

Mr. BARR (Will). I think the chairman possibly put it to a vote first. I don't know what the procedure was.

Mr. FIFER (McLean). And it seemed to be the consensus of opinion that that was the best way?

Mr. BARR (Will). I think it was.

Mr. FIFER (McLean). Well, the down State sub-committee had a conference and tried to figure out what should be done, didn't they?

Mr. BARR (Will). Yes, they had several of them.

Mr. FIFER (McLean). And then we thought we would like to confer with the members down State who were not members of the Committee on Legislation, didn't we?

Mr. BARR (Will). Yes, sir, that is right.

Mr. FIFER (McLean). And we had a meeting with the president of this Convention on that subject, as to whether we should do so or not?

Mr. BARR (Will). I think we had a meeting with the president and some other gentlemen of the committee, some from Chicago and some from down State. There was no effort to conceal anything.

Mr. FIFER (McLean). Wasn't it thought best that we should send for the gentleman who is now in the chair and who was chairman of the committee, and some other leading members of that committee from Cook county, to consult over the question as to whether it would be proper, or create any offense if we called in the down State members to consult about the report that our sub-committee should make?

Mr. BARR (Will). I think, Governor, that we took the matter up with the president simply for the purpose of determining to call that meeting of the down State members to consult with them, and whether that would be either offensive to the president of the Convention or to the Cook county delegates, both on the committee and those who were not on the committee. In connection with that conference several of the members from Cook county came in to the president's office, and we discussed it, and it was entirely agreeable to the chairman of this committee and to the Cook county members who were present and to the president that there should be a conference of the down State members, and I think at the same time it was suggested that it might be wise for the Cook county members to have a conference of their members.

Mr. FIFER (McLean). And the sub-committee composed of down State members had no conference whatever with the other members of the Convention from down State who were not members of the committee until after that conference?

Mr. BARR (Will). Yes, that is true.

Mr. FIFER (McLean). And it was agreed then by the gentleman who is now in the chair, that it would be entirely proper for us to have such a conference with the down State members, wasn't it?

Mr. BARR (Will). Oh, yes, there is no question about that. I don't think there is any idea that there was anything done that should not have been done.

Mr. FIFER (McLean). And it was suggested also that they should confer with their members from Chicago who were not members of the sub-committee?

Mr. BARR (Will). Yes, the conferences were all held with the understanding and approval of both the down State and the Cook county members.

Mr. DEYOUNG (Cook). Mr. Chairman, I don't know what all this is about. I simply wanted to know what the fact was how this was prepared.

Mr. FIFER (McLean). It seems to be inferred here, or some conclusion drawn, that we got off in a dark corner somewhere.

Mr. DEYOUNG (Cook). Not at all. I think the gentleman from McLean is drawing upon his imagination in that respect.

Mr. TODD (Peoria). Will the gentleman from Cook, Mr. DeYoung, answer a question?

Mr. DEYOUNG (Cook). With pleasure, if I can.

Mr. TODD (Peoria). In asking the gentleman from Will some questions you asked him if he did not know, as a matter of fact, that Cook county paid one-half of the taxes in the State.

Mr. DEYOUNG (Cook). I said approximately one-half; from 45 to 50 per cent.

Mr. TODD (Peoria). I want to get your view on whether or not wealth or the amount of taxes paid should be the basis of representation.

Mr. DEYOUNG (Cook). I have always understood and still understand that the matter of taxation does have something to do with representation,

and ought not to be ignored. I have never said that it is the controlling factor, but it does have something to do with it.

Mr. TODD (Peoria). Do you think that the suffrage should be limited to taxpayers?

Mr. DEYOUNG (Cook). I have never asserted anything of the kind, and do not believe that, no, sir.

Mr. MAYER (Cook). Mr. Chairman, I want to have a little heart to heart talk with the gentleman from Will.

Mr. BARR (Will). Do you want to have it here or some place else?

Mr. MAYER (Cook). No, right here. I want Mr. Barr to give us the entire reasons for this limitation. Was there some reason other than what has been developed during this afternoon? Was there some fear of the population, or fear of the city, or some undeveloped reason?

Mr. BARR (Will). No, there is no undeveloped reason. I think I stated over and over again that it was the view of the committee that no small congested district of the State, should have a larger representation in the senate than one-third, no matter what the population might be, but nevertheless, in respect to one of the questions from one of the other delegates from Cook, I did say that the difference in population in a large city, in cities generally, as compared with the scattering population, was talked about by members of the committee, but I thought the controlling factor was the congested population in one county. There was no other thing that I know anything about that controlled the members of the committee.

Mr. MAYER (Cook). So that the question of the kind of population, or the heterogeneous character of the population that is accumulated in Chicago cut no figure in your consideration?

Mr. BARR (Will). I wouldn't say that it cut no figure, Mr. Mayer. I do not believe it was the controlling factor.

Mr. MAYER (Cook). I am not asking the controlling factor. I am really trying to get at all of the controlling reasons, not the single one.

Mr. BARR (Will). I would think that the heterogeneous population in a large city possibly had some influence in arriving at the conclusion that Cook county should be limited, but I would not say that that was the controlling factor.

Mr. MAYER (Cook). I don't want to pin you down in saying that that was the only reason.

Mr. BARR (Will). The only way I would have of measuring that, Mr. Mayer, was the fact that that and other things were spoken of by some of the delegates on the committee.

Mr. MAYER (Cook). If you were to be convinced that the adoption of the new Constitution would be not only imperiled, but its defeat a certainty, would you still on behalf of your committee insist upon the one-third and two-thirds division?

Mr. BARR (Will). I don't think the committee considered the matter from that point of view as to its going to result in the defeat of the Constitution. I am inclined to think that the committee considered the fact that there would be opposition perhaps from Chicago, and that some men would vote against it because of the fact that the limitation was more than in the minds of at least part of the voters was considered fair, and would receive some votes against it.

Mr. MAYER (Cook). The very fact the population of Chicago is mixed, is heterogeneous, and that a very large part of it is not taxpayers, would be reason, I think, which would tend to influence votes against the adoption of the new Constitution with this limitation, on the theory that every voter under the Constitution and under the Declaration of Independence, justly believes that he is equal to every other voter. Now, upon that hypothesis, if you or your committee felt that this proposed section 6, which is now under discussion, if adopted would defeat the Constitution, would your committee still insist upon such a policy?

Mr. BARR (Will). I do not believe that I could tell what the consensus of opinion of the committee is on that subject. I don't believe the commit-

tee felt that a limitation of the representation of one largely populated section necessarily meant that the voters were not equal to other voters.

Mr. MAYER (Cook). Well, take the figures that Mr. DeYoung has put to you, whose accuracy none of us dispute. Isn't that a very dangerous argument to make to the voters of Chicago, particularly the heterogeneous population, that his vote is only equal to a half a vote of the electors outside of Cook county?

Mr. BARR (Will). If that kind of an argument is made without being replied to, perhaps it might be dangerous. Of course, a voter in the State of Illinois for United States Senator is not equal in the same sense to a voter in some other state for United States Senator, and yet we do not consider that we are not equal.

Mr. MAYER (Cook). Well, that is an entirely different matter because we are under different sovereignties.

Mr. BARR (Will). In-so-far as the states are concerned, but we are under a national sovereignty in electing officers to the same sovereign government.

Mr. MAYER (Cook). Very true, but the Senators of that State represent that state. Of course, we cannot complain because the two Senators of Rhode Island have perhaps only one-tenth of the population back of them that the Senators of Illinois have.

Mr. BARR (Will). Of course, under our Federal Constitution, also, every state in the union is entitled to one congressman no matter what its population is, and some states would not have a representative in Congress if it were not for that.

Mr. MAYER (Cook). You recall, do you not, the fact of the compromise in the adoption of the Constitution, and without that the Constitution would never have been adopted, and Rhode Island and Connecticut would never have come in.

Mr. BARR (Will). And, of course, we considered, Mr. Mayer, that we were not establishing a new precedent in the matter of representation of congested districts in the general assemblies of the states of this union, but that was done in almost every state where there is a large city that approaches one-half of the population of the state.

Mr. MAYER (Cook). Mr. Barr, I am not trying, and I am not professing to put questions to get answers that are going to try to trap you. I am looking ahead. We have got something over three millions of population in Cook county, or nearly one-half of the entire population of the State. Each one of those has the same right to vote as any other.

Mr. BARR (Will). You mean each voter, of course, not population.

Mr. MAYER (Cook). Each voter. Now, I am looking ahead. We have been devoted for pretty nearly a year on the work of framing this new Constitution. I asked you whether you personally felt that if the putting in of this section 6 would defeat the section, are you so determined in your judgment that you would persist in it?

Mr. BARR (Will). Yes, I think I would persist in it if I knew that it would defeat the Constitution.

Mr. MAYER (Cook). So that it is a matter not merely of convenience or compromise, but one of principle?

Mr. BARR (Will). Yes, sir.

Mr. MAYER (Cook). Just one or two more questions. In making this arrangement why don't you give Cook county these additional six senators? Cook county would still be in the minority, and you would be holding out to the people of that county that its representation has increased because its population has increased?

Mr. BARR (Will). We think that the limitation should be sufficient to amount to a real limitation, and that if six more were added to the 19, making 25, the difference between the representation in Cook county in the senate and the representation of the balance of the State would be so very close that it would practically amount to no limitation.

Mr. MAYER (Cook). Well, it would be 25 to 32.

Mr. BARR (Will). Yes, seven members.

Mr. MAYER (Cook.) That would give you seven majority. Why don't you remain and keep it as it is now?

Mr. BARR (Will). We do not think that 19 to 32 is a real limitation.

Mr. MAYER (Cook). That would give down State a majority of 13, or within six votes of the total vote of Cook county. You are not satisfied with that?

Mr. BARR (Will). No, sir, we did not think that was a sufficient limitation.

Mr. MAYER (Cook). You have given us all of the reasons that have inspired your action?

Mr. BARR (Will). All that I can think of.

Mr. HULL (Cook). Mr. Barr, Mr. Mayer has spoken of the heterogeneous character of the population of Cook county. I want to make the question which he asked with reference to the population a little more specific. Is it because the population of Chicago is to a considerable extent an industrial population, a population of workers, that you fear the power of the city in the legislature?

Mr. BARR (Will). No, I think not, Senator. We considered that the population outside of Chicago is made up of workers wholly in proportion to those in Chicago.

Mr. HULL (Cook). I ask that question because I have a stenographic report of one of the members of this Convention made in Chicago, stating that as some of the reasons for the limitation, and I wanted to know how far you shared that opinion.

Mr. BARR (Will). I, of course, don't know what some of the other delegates may have said in Chicago, but that presentation was not made before the committee that I remember.

Mr. HAMILL (Cook). I would like to ask one or two more questions. I do not suppose that any member of your committee in discussing this limitation of Cook county to a third in the senate, read aloud anything about section 9 of article 4 which permits an expulsion of a member of the senate by a two-thirds vote?

Mr. BARR (Will). I declare we didn't know about that.

Mr. MILLER (Cook). A rather happy accident.

Mr. HAMILL (Cook). In speaking about the heterogeneous population of Cook county, did you feel that it was dangerous to let it have equal representation because there were 20 counties in the State where the percentage of illiteracy is greater than that of Cook county?

Mr. BARR (Will). The committee did not deal so much with the heterogeneous population as the delegates from Cook asking questions have dealt with it. In fact, there was very little said about that by the committee, much more in the questions that have been asked since I came here, and I think, if the statement you made is true, that that was not presented to the committee.

Mr. HAMILL (Cook). Did your committee consider that Pulaski county has a percentage of illiteracy of 11.9?

Mr. BARR (Will). We had not been advised on that matter.

Mr. HAMILL (Cook). And that Hardin county has a percentage of illiteracy of 11.2?

Mr. BARR (Will). No, that was not called to our attention.

Mr. HAMILL (Cook). And that Alexander county has a percentage of illiteracy of 9.2?

Mr. BARR (Will). No, sir.

Mr. HAMILL (Cook). And that Gallatin county has a percentage of illiteracy of 8.1?

Mr. BARR (Will). That information was not given to us.

Mr. HAMILL (Cook). And that Cook county's percentage of illiteracy is only four and a half per cent, although the percentage of aliens there is 35 per cent?

Mr. BARR (Will). That information was not presented to the committee, as far as I know.

Mr. HAMILL (Cook). But the percentage of aliens, I suppose, was stressed a good deal, wasn't it?

Mr. BARR (Will). I have replied two or three times that it was not, excepting in the questioning that has occurred since I came into the room.

Mr. COOLLEY (Vermilion). Is it not a fact, Mr. Barr, that the committee felt more difficulty on account of the over-educated portion of Cook county than they did with the rest of the State?

Mr. BARR (Will). I think that information was not conveyed to the committee.

Mr. CUTTING (Cook). I would like to inquire if there was any such difficulty about Vermilion?

Mr. DAVIS (Cook). Mr. Chairman, I desire to offer an amendment. Amend section 6 by striking out the words "57" and substitute in lieu thereof the words "51."

It is only necessary to comment on the fact that this amendment if adopted would retain the present number of senatorial districts. I think the question asked by the gentleman from Cook, Mr. Traeger, was a pertinent one, and no satisfactory answer has been given to it. The senate has functioned quite satisfactorily with the number of senators there. The addition of six senators is going to make the machinery more cumbersome; there is an additional expense to the State, and to the counties, in electing that additional number of senators, and it seems to me that there is no reason why in framing a new Constitution with the express declaration on other occasions to reduce the number of office holders, to at this time incorporate a provision which would increase the number of senators in the senate of this State. I move the adoption of the amendment.

Mr. BARR (Will). Mr. Chairman, I would like to suggest that the effect of the amendment offered by the delegate from Cook simply changes the number of senatorial districts, as I understand it, from 57 to 51, and does not change the location or the number of senatorial districts as provided later on. "The territory now constituting the remainder of the State shall be divided by the General Assembly into 38 senatorial districts."

Mr. DAVIS (Cook). May I suggest to the gentleman from Will that in the expectation of having this amendment adopted I will offer the next amendment to fit in with this one.

Mr. BARR (Will). You do not desire to offer that at this time then?

Mr. DAVIS (Cook). No, sir.

(Amendment lost.)

Mr. CORCORAN (Cook). Mr. Chairman, I wish to offer an amendment. I move to strike out all of line two after the word "State," all of line three, and the word "and" in line four.

Mr. RINAKER (Macoupin). Do I understand that the meaning of the gentleman from Cook in offering this amendment is to continue the present apportionment until 1931?

Mr. CORCORAN (Cook). Yes, sir.

(Amendment lost.)

CHAIRMAN SHANAHAN. The question is upon the substitute offered by the gentleman from Will.

(Substitute adopted.)

Mr. BARR (Will). Mr. Chairman, I move to reconsider section 7 of the report of the Committee of the Whole as heretofore adopted by the committee.

(Motion carried.)

Mr. BARR (Will). I offer section 7 as a substitute for section 7 of the committee report.

SUBSTITUTE FOR SECTION 7 OF THE LEGISLATIVE COMMITTEE'S
MAJORITY REPORT.

Section 7. At the same time that the senatorial apportionment is made the State shall be apportioned into representative districts.

Members of the House of Representatives shall be elected for the term of two (2) years from each county or district.

Each county shall be entitled to one representative in the House of Representatives. Each county having a population in excess of fifty thousand (50,000) shall have one additional representative for each additional fifty thousand (50,000) population, or major fraction thereof.

Each county entitled to more than one representative shall be divided by the General Assembly into as many representative districts as there are representatives to be elected from such county. Such districts shall be formed of compact and contiguous territory bounded by precinct lines and containing as nearly as practicable an equal number of inhabitants but in no case less than four-fifths ($\frac{4}{5}$) of the quotient resulting from dividing the population of that county by the number of representatives to which it is entitled.

CHAIRMAN SHANAHAN. The question is upon the adoption of the substitute offered by the gentleman from Will.

Mr. BARR (Will). Mr. Chairman, I just wanted to say that this proposal provides, as appears on its face, of course, for a representative from each county in the lower house; and in addition to that in counties having a population of 50,000 or over, one additional representative for each 50,000 or major fraction thereof. It also provides for the apportioning of the counties being entitled to more than one representative, by the General Assembly.

Mr. MAYER (Cook). Now many votes will that give Cook county?

Mr. BARR (Will). I think 62, Mr. Mayer.

Mr. MAYER (Cook). And how many in the balance of the State?

Mr. BARR (Will). There are 174, as I recollect it, of which Cook county would have 62; 112.

Mr. MAYER (Cook). And how many has Cook county got now?

Mr. BARR (Will). Fifty-seven.

Mr. MAYER (Cook). And how much has the balance of the State got now?

Mr. BARR (Will). Well, 153 is the total in the State, of which Cook county has 57.

Mr. MAYER (Cook). How much is given to the State outside of Cook county?

Mr. BARR (Will). Ninety-six.

Mr. MAYER (Cook). And the balance of the State 16, and to Cook county how much?

Mr. BARR (Will). Five.

Mr. MAYER (Cook). Now I have a few more questions to ask of Mr. Barr. We are getting down to the popular house. In talking about the senate before you referred to each state having two senators. Now, does that same argument apply towards the representation in the lower house?

Mr. BARR (Will). You mean the argument based upon the fact that the states have two senators?

Mr. MAYER (Cook). Yes. Your suggestion before was that each state in the Federal Congress, in the Senate, had an equal representation regardless of wealth and population. Now, that is not the rule, is it, as to members of the House?

Mr. BARR (Will). No, it is not.

Mr. MAYER (Cook). Well, now, why do you want to gag Cook county with this severe chain in the lower house when you have two-thirds in the senate?

Mr. BARR (Will). Of course, as you say, as a matter of compromise each state in the union has one representative in the United States Congress. That is not the reason, but that is one of the facts, however, in governmental affairs, and it is the opinion of the committee that each county in the State should have one representative in the lower house of the General Assembly; that each county is a separate unit. Its business affairs, its political affairs, its social intercourse, are more or less influenced by county boundary lines, and we believe that a representative elected in a district composed of a number of counties or a number of representatives elected from a district

composed of a number of counties, all of whom, perhaps, are from one county or from two counties, leaving one or two of the smaller counties in the district without any representation in so far as being from their own county is concerned, is not proper representation, and that the county basis should be considered as well as the basis of population.

Mr. MAYER (Cook). Now let us concede that each county shall have one member of the lower house. Why do you want to restrict Cook county?

Mr. BARR (Will). We don't want to restrict Cook county a bit different from the way in which we restrict every other county in the State which has a population over fifty thousand. In other words the basis of increase of representation applicable to every county in the State whose population exceeds fifty thousand is one for each fifty thousand or major fraction thereof, and that applies to Cook county and every other county.

Mr. MAYER (Cook). What is the unit of representation in your plan?

Mr. BARR (Will). The county is the unit in so far as each has one representative, and then the ratio is fifty thousand—that is, after a county has fifty thousand inhabitants, it is entitled to one representative for every additional fifty thousand or major fraction thereof.

Mr. MAYER (Cook). A county with fifty thousand has two as I understand it?

Mr. BARR (Will). No, one.

Mr. MAYER (Cook). And when it gets over fifty thousand it has two?

Mr. BARR (Will). No, it has to have seventy-five thousand, a major fraction, in order to get two.

Mr. MAYER (Cook). Why do you abandon the system in vogue under the old Constitution; hasn't that worked very well?

Mr. BARR (Will). No, I think not. Let me illustrate; in my own senatorial district, and I do not point that out as especially different from any other district, consisting of two counties, one a small county, and one a large county, ours happens to be the large county; under the old Convention system the small county of DuPage was practically always represented by a representative from its own county; under the present system of direct primary DuPage has never been able to have a representative in the General Assembly, only for a very small part of the time, because a number of candidates will come out and those from Will county where the large vote was, almost always have been nominated, and the result has been that our county has had three representatives in the General Assembly for a number of years and DuPage county has had no representative in the General Assembly, and that same condition of affairs has existed pretty generally throughout the State, and I think that—not that particular instance—feeling has existed, that each county should have a representative, and that the only way it could be secured was by providing in the Constitution that that should be the method of representation, and this condition induced the committee to provide that that would be the representation.

Mr. MAYER (Cook). You were not influenced at all by creating a semblance of fairness, so as to crowd and strangle Chicago, and at the same time give it the color of fairness, by giving each county unit a representative regardless of the population. That did not influence you at all?

Mr. BARR (Will). You are really asking that for information?

Mr. MAYER (Cook). For information, yes. In other words, didn't you have a certain thing in view.

Mr. BARR (Will). Let me answer the first question. Many of the larger counties are losing in proportion to their present representation a larger percentage of their representation than Cook county is, down State counties.

Mr. MAYER (Cook). But you refer to the Cook county population, which is nearly one-half the State, with a little over one-third of the representation in the lower house.

Mr. BARR (Will). That is correct.

Mr. MAYER (Cook). What I am asking you is, and I repeat the question, didn't you and your committee have to picture the result that you

were trying to attain, and that was the limiting of Cook county, and then you undertook to find what you regarded as the most practical way?

Mr. BARR (Will). No, I think not. I will say this; the committee was decided to limit Cook county in the lower house, and we did select this way because it was the most logical way, but we also selected it because we felt it was the proper basis of representation; but whether that had been done or not, in the opinion of the committee, they would have reported a section that would have limited Cook county to a certain percentage of the number of representatives in the lower house.

Mr. MAYER (Cook). How does that work out, the percentage under your plan; it does not reach two-fifths, does it? A little over one-third, isn't it?

Mr. HAMILL (Cook). Thirty-five and six-tenths.

Mr. BARR (Will). Of course it is true that as Cook county grows in population, as suggested by the other delegates, Cook county's percentage will increase.

Mr. MAYER (Cook). But to give it one-half would take several centuries wouldn't it?

Mr. BARR (Will). It would depend on how fast it would grow; it would take, I imagine, about six million people to put it in that position. I don't know how long it would take to get there.

Mr. MAYER (Cook). Could it ever attain a majority?

Mr. BARR (Will). Yes.

Mr. MAYER (Cook). How long would it take?

Mr. BARR (Will). I cannot tell that; I don't think it would in fifty years.

Mr. MAYER (Cook). You don't think it would in fifty years?

Mr. BARR (Will). I don't think so.

Mr. MAYER (Cook). Then it would be in the power of two-thirds of the Senate—you wouldn't have two-thirds of the lower house would you, without constitutional amendment?

Mr. BARR (Will). Not quite two-thirds. I might say it is the view of the committee, the down State members that Cook county should be—

Mr. MAYER (Cook). Curbed.

Mr. BARR (Will). Limited in both houses, not because it is Cook county, but because, as I said before, the fact it is one county with a tremendously large population as compared with any other similar section of the State.

Mr. MAYER (Cook). Don't you feel as though you have curbed it too much?

Mr. BARR (Will). No, sir, I do not.

Mr. MAYER (Cook). Been too liberal with it?

Mr. BARR (Will). I think we have about struck the happy medium.

Mr. MAYER (Cook). To put the question to you that I did with reference to the Senate; you know that we have got to go before the people to have them vote in favor of our work.

Mr. BARR (Will). Do you happen to be acquainted with the limitation of the other large cities in the legislatures, in the United States?

Mr. MAYER (Cook). I haven't the actual data in mind, is the City of New York under such a restriction?

Mr. BARR (Will). More in the house than in the other.

Mr. MAYER (Cook). So that the limitation keeps it down to one-third in both houses?

Mr. BARR (Will). I think less than that, in one house. They have county representation in the State of New York with the exception of two counties—or there may be four—two of which are put together, otherwise they have county representation in the lower house.

Mr. MAYER (Cook). Do you believe the vast majority of the voters of Cook county would look favorably on this proposition?

Mr. BARR (Will). I don't know. I don't believe the people of Cook county possibly look upon the necessity of county representation in the same way that the citizens do down State, to whom the county is more

important—I won't say important, I will say who observe the county community idea much more than occurs in the large cities.

Mr. MAYER (Cook). Doesn't this, especially from other states' experience, doesn't your proposal fundamentally and utterly undermine the democratic principles which underlie our form of government?

Mr. BARR (Will). No, I think not.

Mr. MAYER (Cook). Particularly as to representation in the lower house?

Mr. BARR (Will). No, I think not; I don't think so.

Mr. MAYER (Cook). In other words one-half of the people, or the population in the State represented in the lower house by one-third of the members.

Mr. BARR (Will). I think population is only to be regarded as an element to be considered in representation.

Mr. MAYER (Cook). As I remember my reading of the cause of the French Revolution, and the debates of the Federal Constitutional Convention, and the present Constitutional Convention, it was to give equality of representation in the lower house as far as possible. I did not bring with me the Federal debates, but my impression is very strong that all through those debates that was the principle adopted.

Mr. DUNLAP (Champaign). May I ask Mr. Mayer a question? With regard to the national representation isn't it true that as a matter of fact it would be impossible for any one state to have a controlling vote in Congress, in the lower house, isn't that true? It would be impossible in the nature of the number of states and the number of representatives.

Mr. MAYER (Cook). I think you are right.

Mr. DUNLAP (Champaign). Then the similarity does not exist does it?

Mr. MAYER (Cook). No, on the contrary the very argument demonstrates I think the accuracy of my question; I am not speaking of giving Cook county a majority, but I am speaking now of giving it a reasonably fair representation in accordance with its population, and you do not do that.

Mr. DUNLAP (Champaign). It is getting the same as the rest of the State.

Mr. DUPUY (Cook.) You mean by that, in your judgment?

Mr. MAYER (Cook). No, I take the figures, take the votes; we have a little over three million population in Cook county.

Mr. DUNLAP (Champaign). Do you consider only the matter of the number of people in determining whether representation is fair or not?

Mr. MAYER (Cook). So far as the lower house is concerned. My reading on all matters pertaining to democratic forms of government leads me to say that it has been tendency of writers and lawmakers to regard population as the unit of representation in the lower house.

Mr. BARR (Will). I believe you are perfectly correct when there is no unusual condition, as where there is a population in one section which approaches the population of the rest of the State. I think if you read the Constitution of other states approaching in similarity the situation in Illinois you will find the tendency towards a limitation in the lower house, in almost every state in the Union, where there is a large city or congested district in one part of the state approaching the majority of the population of the state.

Mr. MAYER (Cook). You still get away from what I am getting at. With the representation you have created for one-half the population in the lower house—the lower house in all legislatures is regarded as a popular house and not the house of checks and balances, as the senate may be—you are giving them one-third or a little over thirty-five per cent of the representation when you have half the population, and you are asking us to go to the voters of Cook county and try and carry through this Constitution with such a provision?

Mr. BARR (Will). Yes.

Mr. DIETZ (Rock Island). Is it not a fact that this committee has provided a means for submitting that question to the people in a section that is brought in today?

Mr. MAYER (Cook). Then you put on Cook county the burden of convincing the people against the report of the Convention, don't you?

Mr. BARR (Will). It depends on the form that the committee may present it in, in the schedule.

Mr. MAYER (Cook). You don't avoid a report of the Convention or this committee in favor of thirty-five per cent, and then you submit a substitute to which those who are opposed to this provision will vote to support, to obtain a majority vote on it.

Mr. BARR (Will). Doesn't that give your people an opportunity to vote on that question?

Mr. MAYER (Cook). Why don't you put both propositions before the people, why don't you put it in the alternative.

Mr. BARR (Will). That is a matter of arrangement.

Mr. MAYER (Cook). It is not so much arrangement, I fear, as a matter of skill on the part of those who are drafting the proposition.

Mr. GALE (Knox). I suppose we have all considered in our minds this question of legislative apportionment from time to time; and that the County of Cook should be limited in the legislature of our State. It has seemed to me that it was one of the serious oversights of the men who framed the Constitution of 1870, that such a limitation was omitted. We listened a number of weeks ago to a very able and remarkable address by the delegate from Schuyler, showing to us what the experience and the results have been in other states, and from that address we learned that all other states are so guarded that no one small territory in such state can ever through the legislature control that state. It seems to me, Mr. Chairman, that when a man votes he represents two interests, his own individual interest, as to which he is entitled to the same weight as every other voter in the State, and his community interest, the interest of the community in which he lives, and it does seem to me that when any small portion, comparatively small portion of the State of Illinois has a compact an enormous number of people their community interests become so great it outweighs the interest of all the rest of the State, and it gives them an opportunity to injure, and thus destroy the community interests of the balance of the State, unless they are properly checked. I think therefore the argument is sound that a congested district, such as Chicago and Cook county in this State, and Baltimore, would be, if you please, in Maryland, should be limited in its representation in both branches of the General Assembly. I was thinking, and I am still thinking, and I still believe in the proposal, section number 7, which we have reconsidered here by our action the other day and today, but, Mr. Chairman, when it comes to limiting the representation of Cook county, as we are proposing to do, and have to do, I cannot agree, much as I hate to disagree, with the delegates who are supporting this proposal. This proposal attempts to place representation in the lower house of the legislature upon the basis of county lines. Now, I assume in the early history of this country territory was considered the proper basis of representation. I think that the time for that has long since passed. I want no member of the legislature to come up here representing territory. I believe he should come here representing people, and the communities of those people, and not the land on which they happen to live. I believe the principle of county representation is wrong, and vicious. I believe it is in line with the old principle of representation in England, the old borough system which continued for so many years, and it finally became necessary to threaten a revolution to make a reactionary house of Lords believe a revolution surely would come if that system was not done away with. Now you say to apply that argument to the State of Illinois is utterly absurd. I wonder how absurd it is. Twenty-two counties in the State of Illinois in the census of 1920 have less than fifteen thousand population; 57 counties in the State of Illinois, and if I thought you would be interested in hearing their names, I could read them to you from the list I have, 57 counties in the State of Illinois decreased in population from 1910 to 1920. Now you are proposing to fix in this Constitution for the life of the Constitution that every one of these counties, a number of them with a population of

less than ten thousand, shall have a representative in the lower house of the legislature. How do you know that in thirty years more, instead of ten thousand they won't have three? Are you going to forever fasten upon the State of Illinois a representation whereby one voter in the country districts, if you please, of Illinois shall have twenty-five times the weight of a voter in another country district of Illinois? You can justify a disparity in ratios between Cook county and the rest, not because of its territory but on account of the vast population it has, and the community and solidarity of interests there engendered, but you cannot justify any discrimination between the north and south, and the east and west of Illinois.

Mr. Chairman, we are cited to the experiences of other states, and I want to call your attention to the fact that under the provisions of the old Constitution of Illinois it was easy to form counties, and that advantage was taken of that proposition and counties were formed in an absolute absurd measure in the State of Illinois. As a practical proposition there could not be much fault found with the State of Illinois if there were forty counties instead of 102 counties in this State, but counties have been formed until there are many counties in this State which are absolutely unable by reason of their small population and lack of funds to provide proper housing facilities for their administration, to pay their officials sufficient salary to get competent men to devote their entire time to those jobs, until in effect the county organization is kept up merely for the gratification of the office holding desires of six or seven men in each county. Now, Mr. Chairman, I suppose there are enough people in this convention whose eyes are set on county representation to put it through, but it does seem to me that if there was some way of checking these small counties, of erecting them into counties which would be a credit to themselves and their people, and the State, the result would not be nearly so bad as it now is, or as it would be under this proposition, and Mr. Chairman, I therefore desire to offer an amendment to this section seven to follow three of section seven, to read as follows:

"When any county shall be found to have less than fifteen thousand population then its boundaries as ascertained by the federal census immediately preceding any apportionment, such counties shall thereupon become consolidated with the adjoining county of less population, and the apportionment herein provided for shall apply to such consolidated counties."

Mr. TRAUTMANN (St. Clair). Just what does your last line mean? That the representation herein provided for shall be apportioned to such territory, does that mean that the consolidated counties shall have two members or only one? As I understand the apportionment under this is one for each county.

Mr. GALE (Knox). One for each county, and I have used the word apportionment instead of representation in order to reach that very point, so that it should be the apportionment herein provided for which should be applied to such consolidated county, and being consolidated there would be but one county to which that apportionment could apply.

Mr. TRAUTMANN (St. Clair). Be but one member from such county?

Mr. GALE (Knox). Yes.

Mr. BARR (Will). I believe that if there is merit in the plan of the minority report on county representation then the fact that a county has fourteen thousand five hundred inhabitants or fifteen thousand one hundred inhabitants should not be a determining factor in deciding that that county should or should not have a representative. I am not surprised at the motion coming from a large city or a county which is almost coextensive with the city, not appreciating the situation exactly, and I use the word appreciate in the sense of not having had the personal contact with the county situation, so as to enable them to understand the reason why the committee and those of us who have made some study of this subject along these lines, have been impressed with the fact that there is something about county representation that is sound. You know in the State of Illinois the real unit as has been suggested before, politically, socially and judicially, is the county. In the county in which I live, and I surmise it is typical of the larger counties, at least, of the State, and I trust you will not think I am

burdening you with this sort of thought, that may not furnish much information to those who are acquainted with the situation, but may give some idea of the conditions to those who live in the large cities, every part of the county is close to and connected with, as a matter of business and as a matter of relationship with every other part of the county.

In our own county a part of the townships are as far as thirty miles from the county seat, and within twelve miles of the county seat of the adjoining county, and yet the center to which the principal interests of those people living out in the extreme section of the county are directed in-so-far as business, their court business is concerned, the transfer of their property, the handling of their estates, the employment of their attorney, their political activities, everything that tends to bring them together, as a community, points to the county seat of the county in which they live, notwithstanding the fact that the county seat of the adjoining county is only a few miles distant. You might draw a map of a senatorial district consisting of four or five counties, with its county seat in each county, showing where it is located, and I would draw out like the spokes of a wheel, the things that tend to attract and draw the interests of the people of that state, and bring them together and center them about the county seat as the hub, and then if I were to place the representatives in the House of Representatives from that district, consisting perhaps of one large county and two or three small counties, I would be compelled to place a mark in perhaps one or two, at most, of those counties having all three of the representatives and the senators, the four representatives of the General Assembly of that district, and all of the rest of the district, without any representation in the sense that they have a representative who is in touch with their community, with their interests, politically, and in a business sense, and with such an acquaintance as will enable him to properly represent the people in that county, in either the lower or upper house of the legislative body. So, gentlemen, with the situation as it exists in our State, as we have developed it in the years of the growth of this State, centering as I say towards the county seat, and the development of that community interest, business, social, political and otherwise, every county is an independent little community, and should as far as possible in my opinion have some representation in the House of Representatives. As suggested by the amendment here you cannot attach the interests of the people of the smaller county to the interests of the people of the large counties. You cannot change the fact that whether they are representative, whether they have a representative over in the other county or not, still their interests are just as different and separate from the adjoining county as if they were not in the senatorial or legislative district at all, and to me it is very much more important that no county in this State, whether its inhabitants are seventy-five hundred or fifteen thousand, or fourteen thousand five hundred, should be left without any representation in the sense that I think representation means, than that some larger county should have three or four representatives instead of two or three, if that is the number. What is the difference in my county with a population of ninety-two thousand whether we have three members of the legislature or two members of the legislature? In my opinion our county, until the county goes to the point where the number cuts some figure in the voting of the legislative body, the county is as well off, if not better represented in the General Assembly by one representative than by two.

Gentlemen of the Convention the members of this committee who have passed and presented to us the proposal, I think come largely from the medium sized and larger counties of the State, and some of us at least will suffer a loss of some representatives, a number of representatives of the General Assembly, if this provision is adopted, but let me say to you, gentlemen from Cook county and other parts of the State, who may or may not agree with us, that conclusion that we have arrived at and which has been written into this article has been the result of our most careful and earnest and faithful consideration, and without seeming to suggest that it was unselfishness on our part in reporting this proposal instead of some other pro-

posals, I think the fact that we do come from the medium sized or larger counties of the State at least indicates that we have endeavored to present an article that I think is for the best interests of all the people of the State of Illinois, without trying to hurt any of the big counties, but trying to favor the little county. We are proud of Cook county—I am not saying this just to say something—we are proud of Cook county, we are proud of Chicago, and may I say that we are even proud, we are proud—I will say that we are proud of the representatives from Cook county in this Convention. Gentlemen, we think every county in this State, small or large, should have some representation in the General Assembly, and no little county whether it has a population of seven thousand or ten thousand or fourteen thousand five hundred should be cut off from that representation and be attached to some other county in order to give that larger county or some other larger county two, or three or four representatives to take the place of the small county.

Mr. HULL (Cook). Your pride has limitation, however, in the Cook county representation, hasn't it?

Mr. BARR (Will). You mean by that if I have unlimited pride in the delegates from Cook county?

Mr. HULL (Cook). That is you don't want any more of us here.

Mr. BARR (Will). We would be glad to have many others come.

Mr. MILLER (Cook). You have stated in assenting to this you and those who come from counties of the same size as this are actuated largely by unselfish motives, is that the idea?

Mr. BARR (Will). I did not say that but I think that is right.

Mr. MILLER (Cook). Then the inference I drew, is right, am I correct?

Mr. BARR (Will). I think so.

Mr. MILLER (Cook). Wasn't the motive in this entire proposal to get an agreement between those or enough of them outside of Cook county to enable you to stand together to limit Cook county?

Mr. BARR (Will). To the contrary I think we could very much more easily have gotten an agreement to arbitrarily limit Cook county without providing for the county representation than we could by providing for the county representation.

Mr. MILLER (Cook). How long since Illinois ever has had this county representation?

Mr. BARR (Will). I don't think it ever had it.

Mr. MILLER (Cook). This is a new plan then to do it, and a belated recognition of the justice of that idea?

Mr. BARR (Will). Do you want to divide the question?

Mr. MILLER (Cook). It is a belated recognition of that plan?

Mr. BARR (Will). You asked me first if it was a new plan.

Mr. MILLER (Cook). A new plan in this State?

Mr. BARR (Will). I think it is a new plan in this State.

Mr. MILLER (Cook). Isn't this a fair statement of the situation, that one reason the provision relating to senators in the Federal Constitution is advanced for limiting Cook county in the senate; another reason, the virtue of county representation is used to justify limiting Cook county in the House; and a wholly different third set of reasons for limiting Cook county to a very small percentage of the representation in the Supreme Court, but that they all, however different reasons, emanate from a majority of the gentlemen here who have the vote, leading up to the same end. That is a fair statement of the situation, isn't it?

Mr. BARR (Will). I would not say so. The limitation of the seventh supreme district had little if any of those reasons—

Mr. MILLER (Cook). I am speaking of the majority, those in majority, you start out—you are with us on that, being in the seventh district, but I say that the majority outside, who have votes enough to carry, in each instance advanced a different reason for reaching the same end.

Mr. BARR (Will). I do not understand that the things you understood to be advanced as reasons, were reasons given as much as—

Mr. MILLER (Cook). As excuses.

Mr. BARR (Will). The real reason was the condition, the local condition of the State of Illinois.

Mr. MILLER (Cook). That was one of the reasons given, and one good reason is enough.

Mr. BARR (Will). I do not think that was given as a reason for the limitation.

Mr. WOLFF (Cook). In the discussion of the educational problems, the gentleman who talked to us, and no one disputed him, advised us that some of the counties down State did not have enough funds or money to educate the children. Does this proposal mean that more people will be deprived of their education in order to have enough money to pay for a political job? Where are they going to get the money to educate the children?

Mr. BARR (Will). Of course we members down State, the fellows holding political jobs, I understand, do not get very much money. There is an entirely different standard than what the standard is in the northern part of the State, as I understand. I don't quite understand the relationship between county representation and the matter of children being educated or deprived of education.

Mr. WOLFF (Cook). You admitted that the county did not have enough money to educate the children, and some of them only had three months education during the year on account of lack of funds. If they are so short of funds and they are going to pay the representatives it means they have to educate less children or to send them to two months of schooling.

Mr. BARR (Will). I think possibly the representative will be paid out of the State treasury, or the different counties will assist in paying part of the expenses, Cook county for instance.

Mr. GEE (Lawrence). In stating my opposition to this amendment, I feel that I can say it unselfishly, because with this amendment to the county I am perfectly safe, because if I was to be selfish I would not be afraid, because my county is over the fifteen thousand limit. I want to call the attention of the committee to the effect of this amendment to the county representation in the House of Representatives. In arriving at the question as to how many counties would be isolated in the House, from having any representation whatsoever, I place the figure at twenty-two or twenty-three. Now you gentlemen who are in favor of having each county having representation in the legislature in the lower house cannot afford for a moment not consider the deadly effect of this amendment proposed, which could have only one conclusion and result, and that is to kill as dead as a mackerel the county representation idea. I am concluded in my mind, and I have said for myself after investigation and listening to other minds that the county representation, individually of each county in this State, is the only just one, the only safe one to be adopted in our lower house. Our legislative department is divided into two chambers, one with four years for a term, doubtless as a balance wheel to keep moving regularly the legislative department of the State, and the other every two years, coming fresh from the people, I have heard a great deal of talk about taking care of the people and giving the people a chance to have an opportunity to be heard. You are absolutely destroying the voice of twenty-two or twenty-three counties of your people by this amendment. The reason is that these counties are too small. Great heavens, men, in the chamber of the legislature for the people of the State of Illinois is any man's rights or any county's rights too small for your consideration? The large, the strong and the wealthy need no protection, but so far as I have observed during my time, they can take care of themselves. It is the weak and the small, you protect them, but the strong protect themselves. It is not a question of wealth, not a question of numbers, it is a question of taking care of your people. It is no concern at this hour that some time in the past out of the great northwest territory, out of these great strips of territory, Illinois has been carved into counties. That is not the question of the hour. It is a question whether you can throw into the scrap pile a part of your people and give them no voice, and they cannot be heard, that class of people who have things to be heard, and

rights to be maintained, and the right to be guaranteed protection as well as any of you in your great strong counties. I want to give you a concrete example, I do not hail from that county in which are the greatest industrial centers of Illinois, but I hail from the forty-eighth district, with more counties numerically speaking than any member of this chamber, and for years our communities have been kicked around like a football in these chambers, and men hear this—I have voted in my time in first one district and then another, sometimes I knew the acquaintances of the district, and sometimes I did not. I want, gentlemen, if possible in this Convention to make a Constitution free and free myself from any partisanship or any selfishness, and I think I can do it. One time years ago the apportionment had to be made again, and they swapped off seven counties in the district along the Wabash River, where at one time we had a compact district, four counties and were acquainted with each other. Now, we are thrown into a district reaching two hundred miles in length and scarcely forty at any point in width, one county having no railroad even in it, and my county the most populous—and if I want to speak about wealth, more wealth than the equal of any other in proportion, but I would not for a moment clamor of that as a right. It is not representation at all so far as the lower house is concerned. In our small way we have great things that we would like to have the legislature take notice of, but we haven't the voice in our representative, able as he is, under the rule governing us. He cannot possibly take care of those immediately around him and think of us as we ought to be thought about. That is true of my district and is true of other districts in the State. "Who is your member," I hear sometimes when I come to Springfield. Your member, why you could not track as much as possible, gentlemen, and the man in the county from which the members came could beat you to any proposition, so far as having him listen to your complaints. I want the gentlemen of this committee to study this section seven. It is the best proposition from my opinion that was ever offered for the consideration of this membership. It has been asked isn't this a new departure so far as Illinois is concerned? We will admit that Illinois can safely take up the proposition that has been so successfully taken up by other states in the union. Do you know, as you all do, that thirteen states in this United States of ours, now have county representation in the legislature, the lower house I would say. I don't forget the empire state, the keystone state, the buckeye state, claiming as I would like to claim for Illinois, preeminence beyond all count, claiming preeminence in population, wealth or aggrandizement, or even people, to this State, they have adopted county representation and they have not gone backwards in doing it. They have listened to the small voice in a country like ours where from the earth grow up the greatest. What right have you to say that Hardin county, my own county, Putnam county or any other county in Illinois, nothing shall come out of there in the House of Representatives. That is the effect in the amendment that has been offered. It has been the effect of the apportionment in the past. You cannot get in, the barriers are too strong, you haven't got the key to unlock it. So, gentlemen, absolutely in my district, of five counties, we are for all time absolutely strangled so far as a voice that might be heard in this legislative hall is concerned. That is the situation now, that is the situation which needs a remedy, conceded possibly, but given a death-blow by this amendment. I don't want at this moment to enter into a discussion of this limitation proposition I only want to call your attention to this amendment, that if we are going to have county representation we ought to have we do not want to have it ham strung at the start with an amendment of this kind, and I appeal to every member of this committee who believes that we start from the unit of a county to fill our legislative walls with the character of men that come from the several counties. Gentlemen, I want to call your attention to an important fact. The best opportunity of selection can be had in our pride of schools, in our pride of transportation. The man in the small community has the opportunity to learn the things, not in this chamber of legislation, but when he is in a county, it may be

seven thousand population or less. When that man puts himself up and says "I want to be a candidate for the lower house," he will be scanned as to his ability as no possible scanning can be made in the present apportionment of districts, or in this sluffing off of the small county on the one that don't want it. When they take that position, with the necessary confusion that will ensue, if that is worked out, then we have the old same proposition that we have now, large concourses of people confined together and the voice of the weak will be stilled.

I think, then, with all our boasted ideas, with all our boasted facts that we stand out for the oppressed and bereaved humanity, let us not think these things under glittering generalities, but let us reach out to these several counties and say you shall be here. They cannot harm you, they cannot hurt you in this way, that your listening ears from these great large populous counties desire to hear. There is only a few of them, twenty-two or twenty-three of them, and they cannot control one hundred and two, so we are in no danger. Now for the practical workings, I have examined the situation in Kansas where they have that ideal county representation, and I have found counties with a population under the census of 1919 of less than twelve hundred, and I am here to claim for them, the sunflower state, that they are not retrograding in the matter of legislation. I find in the State of New York counties of less population than any county in Illinois, and yet they are not surfeited with wealth and strength that they deny that small county representation, and I find that in Pennsylvania, Canton county, with less population than any county in the State of Illinois, their voice is heard. Now, men, why shall Hardin county be crossed again on the sea of politics to land they know not where, give them the opportunity you claim for yourself, give to them as you would want them to do to you, the men of the hour.

Mr. WALL (Pulaski). The fundamental principles of government are vitally touched by the questions we are now trying to touch. While the theory of county representation is new in Illinois, and is a wide departure from our established system, yet it is not a radical departure from the principle of representative government, and indeed, Mr. Chairman, I think is an improvement over our present system in this State. Now, I am going to concede here, to these many able and distinguished gentlemen from Cook county and some of the distinguished gentlemen from down State, at the very beginning of what I might say, that population is among the many paragon questions that enter into representative government. The greatest of them all, but representative government, as much as I grant the principle of population to be, is a representation of no portion of our people, but it means to represent the people and all of their interests, material, educational, financial and spiritual. Now it is not the number of representatives, gentlemen, that make representative government efficient. They may come from any given locality, but the paramount question is whether any given locality shall be, under the scheme of government, deprived of any representation at all. Here is the House of Representatives in the State of Illinois, here are one hundred and two counties in the State of Illinois, this house of representatives is in session, over here sits the nineteen senators and three times as many representatives from the great County of Cook, over here sits three or four from some other county, and over here sits three or four from some other counties. The banners of the one hundred and two counties are up. Then comes Adams, Jackson, etc., and then they take in all of the counties, big and little, until the one hundred and two counties are up, but beneath many of those banners sits no representatives at all. These banners are hoisted over the counties, if you please, and some of you are too poor to have a representative. Is that and should that be a paramount question of representation? They, you say, haven't enough people to have a representative, and you make that a reason for even the seats beneath those banners vacant. In other words you say there are ten counties with less than ten thousand population in the State, and they are not entitled to representation in any form whatsoever. Those banners are saying to you silently, but in clear-cut language, to the other

counties who have sitting under their banners, representatives, and to the great County of Cook; we pay our portion of the State's burden of taxation, we have put ourselves with the same nobility of citizenship that you do in Cook county, we respond to the call of the State and the call of the nation the same as you do, with the same fortitude, we fight with the same patriotism, we exhibit the principle of American representation in our State, yet here in the hall of its capitol we are wholly without any representation whatever of our people or any of their interests. Five hundred thousand of the people of Illinois today are without any representation at all in the General Assembly because of our present system. You can say that they live in these counties which have no representative, you can sing with fidelity the old song, "Rattle poor bones over the stone, there are only ten paupers that nobody owns."

I say that one of the principles of representative government is that every interest of every man, woman and child should be represented and to that end I am in favor of this proposition, and against the amendment.

Now these gentlemen from Chicago, the delegates from Chicago say that this limitation will not give you sufficient representation. Is it upon that theory that you are fighting limitation, isn't there every interest of every human being represented, and represented by a great number of persons? Is there any applicant for justice at the hands of the State that cannot find his representative over the telephone in five minutes, in Chicago or Cook county? The same is true of the other counties who have the other representatives, but it is not so of the others. Now what is the scheme of representative government? Let us see. The State is one of the units of the nation, the county is one of the units of the state; the township is a unit of the county. What does the township do? It elects supervisors, meets at the county seat and transacts the county's business, and listens to the call of the people for local business, there is your smallest basical principle of the application of representative government. The township is the county unit, the county is the state unit, and the state is the national unit. Now then if you have thought for a moment, did you ever think for a moment that you are breaking the chain of our present system, that the county is a distinct unit and has no representation, that the rule of representative government is broken unless you allow every county a representative? Now if there was any danger that the County of Cook or any other big county in this State would suffer from want of representation, I would not for a moment raise my voice in behalf of these counties that have no representative, but such is not and cannot be the case. I say it is against the principle of representative government for any portion of our people, that compose a unit, by the application of the practice of representative government to be deprived of representation, and the states that have now adopted this system are the greatest states in the Union. Some of the small and so-called insignificant states have adopted it. Has it ever been repealed in any of those jurisdictions? Has the Constitution of any of those jurisdictions been amended? Amended so the principle of representation by county representation has been nullified? You cannot find it anywhere. I assume therefrom the standpoint of experience and from the standpoint of equity and fair dealing, from the standpoint of giving to all the people the principle of sending a representative from each county is correct and therefore I am against this amendment and for the proposition of the county unit.

Mr. SCANLAN (LaSalle). I am very much interested in listening to the gentleman from Lawrence, and to the great appeal that he made for his territory. Of course he is for county representation and county units, because when this is all over, the territory he now represents will have seven representatives instead of three. He is not a bit selfish, he really means it, and with his one hundred and eight thousand people, which is the population of the seven counties, he will have, if this thing goes through, seven members in the House. That is all right, because it is agreeing with the county unit. The gentleman who last spoke will add to his membership in the lower house, too. The other gentleman will add, too. I am against the county unit proposition. I don't think it is fair. It is not honest, and

it never was, and it is an indictment against the men who sat in the previous Conventions in this State representing the territory that these men now represent, when there was no such great disparity between population between the different counties of the State, in that they did not at that time secure county representation. If there is a single valid argument for it now, that argument was a thousand times stronger in 1870 and in 1848. The counties that we now complain of at that time were not losing population, the totals of the different counties were as widely varied as they are today. Now as the years go on and conditions change, these counties which have been losing population in the last ten or twenty years will continue to lose population, and the larger county will continue to grow, but you intend by this proposition to ham string the larger counties of the State, and in one breath you penalize Chicago and Cook county and then you turn around and give a bonus to the small counties and you say forever, no matter what your population may be, you are entitled to one member of the General Assembly because you happen to be a county. It has been said here by some of the members that legislation in the legislature does not mean numbers, it means somebody to speak for the county. I know, and I think those who served in the General Assembly in the past, know that statement is not true, anybody who serves in the Assembly will say it is true that when you call a roll in the senate and house, votes count. It takes seventy-seven votes to do the work in the house, on any bill, and each one of these counties will have a vote no matter how small they are. My experience has been that an act of this kind will tend in the direction of reaction instead of progress. It is a mere continuation of the program to ham string the industrial centers of the State. You seem to be afraid of the progressive movements coming from the larger industrial centers of the State. You seem to want to put the control of the law making bodies in the hands of the smaller counties, the counties which do not increase in population, and do not have the diversified interests. I am for this amendment and I think it ought to be adopted.

(Amendment lost.)

CHAIRMAN SHANAHAN. The question is on the adoption of the substitute for section seven.

Mr. BARR (Will). I think a number of the gentlemen who desire to be heard on this vastly important question are not able to present their arguments tonight, and in consideration of that fact, and in consideration of the fact that at least in one instance the member is not feeling at all well, and that I think this committee should give all of those who want an opportunity of presenting their views ample opportunity of doing so, for that reason I move you that the committee rise, report progress and ask leave to sit again.

(Adopted.)

President Woodward presiding.

Mr. SHANAHAN (Cook). The Committee on Legislative Department has been in session, made progress and ask leave to sit again.

(Adopted.)

Mr. DAVIS (Cook). I move we now adjourn until nine o'clock tomorrow morning.

(Adopted.)

Adjournment until nine o'clock Thursday morning, December 2, 1920.

THURSDAY, DECEMBER 2, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

Prayer by the Chaplain.

The President in the chair.

THE PRESIDENT. The journal of Tuesday, November 30th, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the journal of Tuesday, November 30th, will stand approved.

Under general orders of the day the Convention will resolve itself into the Committee of the whole for the purpose of further hearing the report of the Committee on Legislative Department. Mr. Shanahan will act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole with Delegate Shanahan in the chair.)

CHAIRMAN SHANAHAN. The committee will be in order. The question before the house is the substitute for section 7 offered by the gentleman from Will. Is there any further discussion upon the subject?

Mr. HAMILL (Cook). Mr. Chairman, with the permission of the subcommittee reporting this, I desire to ask one or two questions for information. The proposal of a separate submission, do I understand the plan is this, that there shall be included in the draft of the new Constitution the county representation plan so that anybody who votes for the Constitution will necessarily vote for the county representation plan, and then there is to be submitted as an alternative the proportionate representation plan without any limit, so that if a voter should vote for the Constitution and also vote for the separate submission, he would vote for both plans?

Mr. BARR (Will). I would say, Mr. Chairman, in reply to the question, that the committee did not work out in detail just how that submission should be made, as to how the vote should be counted, but it was the idea of the committee first that the committee on schedule, or the proper committee, would probably work out a method by which that or any other substitute proposal would be presented; and it was the intention of the committees that it should be presented in such a way that the voter would have a clear way of determining which of those two sections he desired to be in the Constitution, and if the majority of those, I would think, voting for the Constitution—more than a majority of the votes cast on the Constitution were for the substitution, that that would prevail. In other words, it was the intention to present the matter in such a way that the voter would have an opportunity of choosing as between these two propositions, and the one that received the most votes should prevail without there being any advantage of one over the other.

Mr. HAMILL (Cook). Can you figure any way by which that can be done, except by eliminating both of them from the Constitution as an entirety and submitting each of them as a separate proposition?

Mr. BARR (Will). We felt that it could be done. Now, I have not worked it out.

Mr. HAMILL (Cook). If you can figure out any way by which it can be done except that, you will greatly enlighten us on this debate.

Mr. BARR (Will). Are you advised that it cannot be done?

Mr. HAMILL (Cook). I have been giving it a great deal of thought, and I don't see how it can be done.

Mr. BARR (Will). Was not practically that method followed in the 1870 Constitution providing for minority representation?

Mr. HAMILL (Cook). I don't know.

Mr. BARR (Will). In other words, was not the question of minority representation submitted separately and a provision written into the Constitution which did not provide for minority representation, and the matter submitted providing that if minority representation carried, it should be substituted for the other, and that it did prevail and was substituted?

Mr. CUTTING (Cook). Yes, but wasn't that on a vote which was determined by the votes cast upon the separate proposition, yes and no, on that one proposition, without reference to the other propositions?

Mr. BARR (Will). No, I think not. I think it could be worked out, Mr. Hamill, and it was the information of the committee that it could be worked out, and the intention that it should be submitted in that way. Now, just how, I am not able to say.

Mr. HAMILL (Cook). I don't see how it can be done.

Mr. BARR (Will). I think Delegate Todd, who was selected to sort of investigate that matter, can possibly give us that information.

Mr. HAMILL (Cook). Let us have it from him.

Mr. TODD (Peoria). I can simply state the manner in which it was done in the schedule to the Constitution of 1870. If a man voted for the Constitution, he was voting, if the Constitution carried and the separate proposition did not, for the plan of apportionment submitted in the Constitution itself, in sections 6 and 7 of article 4. If he voted for the separate proposal for the minority plan, he voted both ways, as you state. However, the votes were not counted because of the fact that if the minority plan carried by a majority of all the votes polled, it was substituted for the sections that were incorporated in the Constitution, and it did so carry, and they were so substituted for those sections, and are part of the Constitution today.

Mr. HAMILL (Cook). In your plan, if the Constitution should carry by a majority of a hundred thousand, and the separate plan carried by a majority of 25,000, that is, you submit them separately, people vote aye and no on it, and there are 25,000 more ayes than nays, which section prevails?

Mr. TODD (Peoria). The substitute section, if the substitute section receives a majority of the votes polled at that election. Under the plan that was submitted in 1870 the substitute section carried, and the part incorporated in the Constitution was taken out.

Mr. CUTTING (Cook). Let me ask Mr. Todd this question: Assuming that there were yea and nay votes on the substitute, and the majority, on those votes cast on the substitute only, were in favor of the substitute, is it put into the Constitution although the Constitution itself received more votes?

Mr. TODD (Peoria). Under the plan submitted in the schedule of 1870, every ballot cast was a vote because the plan submitted was this: The ballots were handed to the electors and unless they scratched from that ballot a proposition, or the Constitution itself, it was an affirmative vote for every proposition on the ballot. I will further answer it by saying that they did determine upon the manner of submission. If it required that the separate proposition should have a majority of the votes cast on the question separately submitted, it would carry by a majority of the votes cast on that question without regard to the votes cast for the Constitution itself. If it required that it be carried by a majority of the votes polled, then it must have 51 per cent of the votes polled to be substituted.

Mr. HAMILL (Cook). What is the plan?

Mr. TODD (Peoria). There is no plan, sir. It is a matter, in our judgment, that would have to be submitted by the committee on schedule to follow the plan in the old Constitution, of which Judge Dupuy is chairman, and it would be worked out in that committee, and it would go back to the Convention for adoption, the same as any other plan.

Mr. DUPUY (Cook). May I ask the chairman of the committee a question? Would it be satisfactory to the committee, provided that these two forms of propositions, one limiting the representation in the lower house, and the other not limiting it but making it proportionate, should both be

withheld from the principal part of the Constitution and submitted as an alternate proposition by themselves, so that they would stand on a certain equality and compel the voters to accept one or the other as their choice, and let it be submitted in that way?

Mr. BARR (Will). That is not the plan that has been adopted by the committee, and I do not believe that that would be satisfactory to the committee. I want to say this, that this proposition of section 7 as presented, to become a part of the Constitution, has been presented by this sub-committee with the understanding that the second proposition can be submitted as a separate proposition in a way that will enable the voter to exercise his choice as between those two propositions, and only with that understanding, and we have been assured that that can be worked out, and I think it can. Now, then, if there is a committee that will have this matter in charge—I understand the committee on schedule—we felt it was not incumbent upon us to determine the work for that committee, but this is presented with the understanding that these two propositions shall be presented in a manner that will enable the voter to exercise his choice as between them; I might say, with the proviso, however, that this original section 7 shall be written; if there is any preference, it gets that preference, that is all, but we want it submitted.

I will say that this is presented purely with the understanding that the alternate proposition will be presented with the Constitution separately in a manner which will enable the voter to choose between them. Now, more definitely than that I am not able to say, because the committee feel that that is a matter that the committee having that in charge will have to work out.

Mr. DUPUY (Cook). Mr. Chairman, as chairman of the schedule committee I am asking you these questions with that particular thing in mind. Suppose the Committee on Schedule should present this matter in such form that neither one of these propositions would have any advantage over the other, that neither would go into the principal draft of the Constitution, that the two things should be put up to the voter side by side, with the necessity on the part of the voter of selecting one or the other of the two methods as the method of control for the lower house, would that form be satisfactory?

Mr. BARR (Will). I would not want to pass upon that, Judge, until the report of that committee came in before the Convention or the Committee of the Whole, further than to say what I have already said, that this committee desires that it be presented in a manner that will enable the people to choose as between the one that is in the Constitution and the one that is submitted separately.

CHAIRMAN SHANAHAN. Might I ask the gentleman from Will a question? When the Constitution of 1870 was presented, it was presented under the old ballot law, was it not?

Mr. BARR (Will). A special ballot was prepared for the Constitution, and I assume that that will be the manner in which it will be presented at this time.

CHAIRMAN SHANAHAN. It was under the old ticket system of parties peddling tickets, was it not?

Mr. BARR (Will). I don't think so. I think there was a special ballot, as I understand, without having looked into the matter carefully, provided by the Committee on Submission, upon which the vote was taken for the Constitution.

CHAIRMAN SHANAHAN. Wasn't it a fact that there were two ballots prepared so that voters could take either one of the ballots that they desired? On one ballot was the Constitution with the minority plan printed in, and on the other ballot was the Constitution with the original sections 6 and 7, so that the voter did not have to do any scratching or indicating except vote the ballot that he desired?

Mr. BARR (Will). Mr. Todd perhaps is better acquainted with those facts than I am. I understood they did scratch.

Mr. TODD (Peoria). It was expressly provided that they could scratch if they did not want to approve it. If you care for any further information I will read it.

CHAIRMAN SHANAHAN. It might be well.

Mr. TODD (Peoria). "The new Constitutional ticket, for all the propositions on this ticket which are not cancelled with ink or pencil and against all propositions which are so cancelled." And then it illustrated: "For the new Constitution, for sections relating to railroads," and so on down, including the section relating to minority representation. "Said votes shall be counted as a vote cast for each proposition thereon not cancelled with ink or pencil, and against each proposition so cancelled, and returns thereof shall be made accordingly by the judges of election."

Mr. HAMILL (Cook). Mr. Chairman, if I may put another question to the gentleman from Peoria: If my memory serves me, the minority representation carried by a vote substantially larger than the Constitution itself—I think it carried by some twelve or fifteen thousand more. Am I right about that?

Mr. TODD (Peoria). I am not certain which had the larger vote.

Mr. HAMILL (Cook). Assuming that I am right, then this is plain, that the minority representation had more votes than the provision for which it was substituted. But supposing under that submission the minority representation had had more aye votes than nay, but less votes than the Constitution, which section would have prevailed?

Mr. TODD (Peoria). I can answer that by saying minority representation, and if you don't believe what I say I will read, or let you read, the section which relates to the form of the ballot, and the manner in which the vote shall be counted.

Mr. HAMILL (Cook). You have just read it, have you not?

Mr. TODD (Peoria). No, sir, I have not read all of it. It is very long. I will read it if you want it read into the record.

Mr. HAMILL (Cook). I am seeking information.

Mr. TODD (Peoria). "If it shall appear that a majority of the votes polled——"

Mr. MAYER (Cook). What section of the schedule do you read from?

Mr. TODD (Peoria). Section 12: "If it shall appear that a majority of the votes polled are for the Constitution, then so much of this Constitution as was not separately submitted to be voted on by the articles and sections shall be the supreme law of the State of Illinois on and after Monday, the 8th day of August, 1870; but if it shall appear that a majority of the votes polled were against the new Constitution, then so much thereof as was not separately submitted to be voted on by articles and sections shall be null and void. If it shall appear that a majority of the votes polled are for the sections relating to railroads in the article entitled, 'Corporations,' sections 9, 10, 11, 12, 13 14, and 15, relating to railroads in said article, shall be a part of the Constitution of this State, but if a majority of the said votes are against such sections, they shall be null and void. If a majority of the votes polled are for the article entitled, 'Counties,' such article shall be a part of the Constitution of this State and shall be submitted for article 7 in the present Constitution entitled 'Counties,' but if a majority of said votes are against such article, the same shall be null and void."

Do you want it all read?

Mr. HAMILL (Cook). No. I want that part relating to minority representation.

Mr. TODD (Peoria). "If a majority of the votes polled are for either of the sections separately submitted relating, respectively, to the Illinois Central Railroad, minority representation, municipal subscriptions to railroads or private corporations and the canal, then such of said sections as shall receive such majority shall be a part of the Constitution of this State, but each of said sections so separately submitted against which, respectively, there shall be a majority of the votes polled, shall be null and void; provided that the section relating to minority representation shall not be de-

clared adopted unless the portion of the Constitution not separately submitted to be voted on by articles and sections shall be adopted."

You will notice that the other provisions which are adopted, each separately became a part of the Constitution of Illinois whether the Constitution that was submitted at that time was adopted or not, but this would not become a part of the Constitution of Illinois unless the 1870 Constitution was carried.

Mr. HAMILL (Cook). Now, I am frank to say—it may be that I am dull today—but I do not understand from that, and I would like your opinion upon this question, if the Constitution of 1870 was carried by a larger majority than the majority which carried the minority representation, is it your opinion that under the provision of the schedule the minority representation plan would have prevailed?

Mr. TODD (Peoria). Yes, sir.

Mr. HAMILL (Cook). Notwithstanding the fact it was in conflict with a portion of the Constitution that carried by a larger majority than this?

Mr. TODD (Peoria). I think that was their plan. It says, "If the majority of votes polled upon the election are for the minority plan or the substitute plan, it shall become a part of the Constitution of 1870 if that Constitution is adopted."

Mr. HAMILL (Cook). But it also says that that which was submitted as a part of the Constitution should be the law if carried by a majority.

Mr. TODD (Peoria). No, sir. It says the Constitution shall become the law of the land if carried by a majority, except such portion as had been separately submitted.

Mr. HAMILL (Cook). Yes, but the clause which provided for a form of representation in conflict with minority representation was not submitted separately. It was submitted as a part of the Constitution, and it was adopted by a larger vote than the minority representation, upon my hypothesis. Therefore, how could it be eliminated by the smaller vote for the minority representation?

Mr. TODD (Peoria). It is so provided that it should be substituted if it is carried by a majority vote polled at that election.

Mr. GREEN (Champaign). Mr. Chairman, might I attempt to answer Mr. Hamill's question, as I think this committee understood it when they submitted this plan?

Mr. HAMILL (Cook). I would be delighted to have your explanation.

Mr. GREEN (Champaign). Now, this plan for county representation would never have been submitted by this committee except for the fact that it was understood that the people would have a fair opportunity to choose between the two. Now, that fair opportunity is exactly the plan which was used to substitute minority representation in the present Constitution, except for the provision in that schedule about the presumption of affirmative votes on that proposal from a failure to vote at all, and this situation is exactly like this:

Here is a Republican ticket and a Democratic ticket. A man may want to vote the Republican ticket and puts a cross in the circle at the head of that column, except that he wants to vote for county judge on the Democratic ticket, and he goes over on the Democratic ticket and he votes in the square opposite the name of the candidate for county judge. Now, that would count as a vote for all on the Republican ticket except county judge, and it would count a vote or the Democratic candidate for county judge. Now, the people who voted the Democratic ticket entirely by a cross in the circle, or those who placed a cross in the Democratic circle and only voted for one candidate on the Republican ticket, would still be given their choice on this candidate for county judge.

Now, it was the clear understanding by the sub-committee which presents this proposal, that if the proposed substituted plan of representation in the lower house received a majority of the votes cast at the election, it should prevail over the provision in the main body of the Constitution as is proposed to be inserted in this section now before the house, and that gives

the opportunity to the man who votes against the Constitution, to vote for this substituted method of representation.

Mr. HAMILL (Cook). It must be a majority of the votes cast at the election, not a majority of the votes cast on that question.

Mr. GREEN (Champaign). No, sir; any proposition which carries must receive a majority of the votes cast at the election, but it is not limited to receiving more votes than the main body of the Constitution receives. That is a plan to be worked out by the schedule committee, but it will be admitted that the great number of those on the sub-committee never would support the scheme of county representation except for that fair method of submitting to the voters the right to choose between them, and if you would deny to the voters who vote against the Constitution to vote on it, it would not be that kind of fair thing. Now, there are some on the committee who have other plans of submission, but that is the only fair way, it would seem, it could be done. The schedule committee will work out the details as to how it should be submitted.

Mr. FIFER (McLean). Mr. Chairman, it seems to me this is not the time to determine how this proposition shall be submitted separately. That is a question to be determined largely by the Committee on Schedule. There are other questions that are to be submitted separately, and when the committee makes its report to this body, every delegate will have his say. I want this question fairly and intelligently submitted so that the voter can easily determine what he is doing and what he stands for. Now, we are discussing a question here entirely out of its place. It is determined here no doubt in the minds of everybody that it shall be submitted separately, but just the form we cannot determine at this time in advance of the report of the committee that has this matter in charge.

Mr. DUPUY (Cook). Mr. Chairman, may I ask Mr. Green one question in further elucidation of what he has said, namely, will the schedule committee be warranted in submitting a plan that will not handicap either of these methods in any way, one over the other, so that there can be a complete, fair expression as between the two methods under the plan that will be presented?

Mr. GREEN (Champaign). It is undoubtedly the opinion of the great preponderating majority of those supporting this county representation plan.

Mr. CORLETT (Will). Mr. Chairman, I wish to ask the gentleman from Cook, Mr. Dupuy, a question. Do you favor submitting the two plans separately, entirely disconnected from the Constitution?

Mr. DUPUY (Cook). Mr. Chairman, I did not so state. I have no well defined notion on the subject, except this, that neither method shall be handicapped by the method of submission, that they shall have an equal and fair show before the voters of the State when they come to vote on this Constitution.

Mr. CORLETT (Will). The sum of the questions that you were asking indicated to me that you really favored submitting the two plans entirely disconnected from the main body of the Constitution. Now, I may have misunderstood you.

Mr. DUPUY (Cook). You should not draw that inference. I am asking these questions mainly because as chairman of the schedule committee I want all the information that that committee can have before it when it comes to formulating this plan, and these explanations will all be very helpful in enabling the committee to get at what the sense of this Committee of the Whole is at this time.

Mr. MAYER (Cook). Why shouldn't they be submitted separately? What is the objection to it?

Mr. CORLETT (Will). Is there any doubt, Mr. Mayer, but what every part of this Constitution must receive a majority of the votes polled at the election?

Mr. MAYER (Cook). None whatever, so far as I am concerned.

Mr. CORLETT (Will). Well, then, suppose the main body of the Constitution were submitted, and these propositions were submitted separately,

and the Constitution were adopted, but all of those who voted on the Constitution did not vote upon one or the other of the separate propositions, and neither proposition received a majority of all the votes cast at the election, then would we not have a Constitution without any provision in it for apportionment?

Mr. MAYER (Cook). That might be the result, but putting it as you contemplate, certainly, gives a very great advantage to your sub-committee's proposition. In other words, unless these two propositions be submitted upon a basis of equality so that the voter can choose between them, the sub-committee's proposal, as fathered by the chairman from Will county, will have, in my judgment, a very strong advantage over the other. I can explain that further if you wish.

Mr. CORLETT (Will). I can see where you might have a Constitution without a legislative article in it.

Mr. MAYER (Cook). No, that could be guarded against. What we are opposed to is the proposal that this Constitution shall go to the voters of the people of Illinois so that those who do not vote upon our substitute, if I may call it such, will be recorded by putting their cross in the circle for the entire Constitution.

Mr. LINDLY (Bond). Mr. Chairman, I rise to a point of order. This is not the question before the house. It will be brought before this house when this question is settled, and that is the proper time to discuss it.

CHAIRMAN SHANAHAN. The question before the house is the substitute offered by the gentleman from Will for section 7, and it is open to full discussion. Are there any further remarks?

Mr. BARR (Will). Gentlemen, we have wandered around somewhat in these questions and answers. May I state, just as definitely and tersely as I can, the position of this sub-committee, that these two propositions shall be presented to the people in such a manner that they may have full opportunity of exercising their choice between them. That method of presentation is a matter that will have to be worked out by the committee having that matter in charge. As to exactly how those propositions shall be presented separately, I am not prepared to say, and this Committee of the Whole, in my opinion, might spend a day and not be able to arrive at what would be the proper conclusion; but for the benefit of the gentlemen who are anxious to know whether or not we mean this, or whether it is a subterfuge, I do want to say with all earnestness, that this sub-committee, who are supporting this proposition, are supporting it with the understanding that the two propositions will be presented in such a manner as to enable the voter to exercise a choice; that it is our view at this time that this method presented by the county representation plan be written into the Constitution, and the other provision offered as a separate proposition. Now, just how the committee may work that out is a matter that will have to be determined when the report of that committee comes in.

Mr. DEYOUNG (Cook). Mr. Chairman, may I ask the gentleman from Will a question? May I ask you whether you are perfectly willing to exchange the order of these two, and put your alternative in the main Constitution itself and your county proposition on a separate ballot?

Mr. BARR (Will). No, I am not.

Mr. DEYOUNG (Cook). That is all I want to know.

Mr. BARR (Will). No, I am not satisfied to do that at this time. If it is an advantage, why should we give you the advantage?

CHAIRMAN SHANAHAN. The question is upon the substitute offered by the gentleman from Will.

Mr. CUTTING (Cook). Mr. Chairman and gentlemen of the committee: It was perfectly well known at the time this Convention was in embryo that this question of the restriction of Cook county would be a vital one. We fully understood in Cook county that the question was coming before this Convention, and in all the discussion in Cook county—I attended none anywhere else—there never was a suggestion but that at least one of the Houses of the legislature of the great State of Illinois should be a popular house. There have been many schemes, old and new, of restricting the voters

in the exercise of their untrammelled choice. The idea of putting trammels on somebody in order to prevent him from doing something is no new thing, but as we progress in what we call our civilization, we seem to be fertile in inventing new ways of putting these trammels on.

In the early days of the republic, and particularly in my native New England, it was quite customary and very much in vogue to have a property qualification by which a voter was in effect a taxpayer. It was thought that the safety of republican institutions, as there established, could only be perpetuated by giving to those who paid taxes, or who owned a certain amount of property, the right of suffrage. Until a comparatively late date, in one of the New England states, that remained the law. It was a restriction. It acted as a restriction not only upon the entire body politic, but especially upon certain portions of that body. As time went on we Americans have developed another idea. We have followed an ideal, if I may say, and far be it from me to decry ideals. If we have no such thing, if there are no ideals that animate us and that permeate our institutions, we shall fail as a government. The fact that we have ideals and that the great ideal has been the right of the individual and his equality before the law, has made the Government of the United States exactly what it is.

At that time and for a long time thereafter there was a limitation as to race in this country. It was thought that even in the States where the colored man was free that he ought not to participate in the government in which he lived. There was bitter controversy over it. There was as much feeling about it—yes, far more feeling, I take it—than there is in this Convention, about the question of whether or not the colored man should be given political rights, and it culminated finally; that is to say, the great wrong of slavery, which involved human rights, finally culminated in the war of the rebellion, in which the ideal of the American people prevailed over the doctrines of expediency, as they were presented speciously and with convincing force to many minds, why there should be no emancipation, and eventually why there should be no enfranchisement of the colored man. But our ideals prevailed and he was enfranchised.

Still later another portion of the community, the women of the land, felt that they, too, had rights in connection with the government under the power of which they lived, that they should be given something to say about it, and that enfranchisement was their right, and only recently has it become the law of the United States of America that women, equally with men, shall vote.

Have we started on the backward track? Nobody contends for a moment that the people of Cook county are to be disfranchised absolutely. They are going to be allowed to vote, but the effect of their votes is to be very materially minimized. The 14th amendment to the Constitution of the United States was passed for the express purpose of preventing the states that were lately in rebellion from in any way, by any device, under any circumstances limiting and restraining the right of suffrage, particularly to the black race. The language is broad. If it is in any wise minimized or restrained, it is in violation of that amendment to the Constitution of the United States, and as I think I have said in this chamber once before, there is not the slightest question but that if a community composed largely of colored people in the southern states was being disfranchised—I think I can use the word advisedly—as it is proposed in this act to disfranchise a large portion of the people of Cook county, the government of the United States would be justified, under the 14th amendment, in reducing its representation in the national congress.

But that is not before us. The question is, are we going back to the proposition that we will limit, restrict, restrain American citizens, citizens of the State of Illinois, to such an extent that we shall make in effect a privileged class, a dominant and a servient electorate? You may disguise it as you will, Mr. Chairman. You may put it in any attractive form that you like. You may sugar-coat it with county representation or with anything else, if you will. You still go back to the fundamental fact that you are discriminating between citizens of the State of Illinois. Where did

this doctrine originate? What is its genesis? One need only to listen to the able arguments, to my mind specious and not convincing, by which it has been sought to bolster up and to effectuate the doctrine that while people in the individual and in small communities may be safely trusted, large aggregations of population cannot be trusted.

The question never seems to have occurred to anybody that perhaps the large aggregation was not willing to trust the small aggregation; that it was a rule that might well work both ways, perhaps, but it never has, and all this question is built up, as I believe, and as I have stated, I think, without fear of successful contradiction, upon a chimera, upon something which has been evolved from the inner consciousness of the people who wish to bring it about and make it the law of this State.

I said where did it have its genesis? It had it in the State of New York. There is no precedent going back of 1894 in the State of New York, with which I am familiar—at least in the debates there no other one was cited, save only the Constitution of the United States—on the question of representation. And let me stop right there, because that argument has been used again and again, that the United States Senate is a representative of territory, and is not a representative of the people. That each state in this union has the same representation in the upper house of Congress is true, but do you forget, gentlemen, that the Congress of the United States is not composed of an aggregation of counties which are mere political divisions of a sovereign state, but that it is composed of representatives of sovereign states themselves, and that they could stay out or go in as they saw fit at the time of the adoption of the Constitution? Delaware, Rhode Island, Connecticut, New Hampshire, the little states, the little colonies, the little ingredients that went into the whole that made the United States of America, were each sovereign states, not political divisions of a great state, for there was no great state at that time, and, therefore, there had to be given to them something which would bring them in. It is here supposed that a county in this State is equivalent to a state in the union, when the county may be changed while the state cannot be, that the county does not ask this in order that it may come in, while the state can say, "If you don't give it to me, we will stay out." The difference between a sovereign state and a mere political division is so plain that at least to the lawyers of this body I need say no more on that subject.

The Senate of the United States is not a representative body according to population, but the House of Representatives, I say without fear of successful contradiction, is such a representative body. It has been suggested in refutation of that claim that it is in the Constitution of the United States that every state when it is admitted, no matter how small, shall have at least one representative, and that is the law; but what does that mean? It simply means—and there are no more being admitted without the population, there are no more to be admitted, the thing is done—but in order to encourage new states where the population was rapidly increasing, that they from time to time admitted states which had somewhat less than the required ratio.

I see in a publication which has been distributed through this body the statement that one-twelfth of the states of the union were in that condition. I just want to analyze that statement one single moment, and I think the refutation will be seen. Even if one-twelfth was so, it would not change the fact that eleven-twelfths is based upon population. The four states to which they refer—for 4 constitute one-twelfth of 48—are Arizona, Delaware, Wyoming and Nevada. At the last apportionment in 1910, Arizona had 204,354 people, and the ratio of representation was 211,000. Therefore, Arizona lacked 7,000 of being up to the list, and see what has happened since. Arizona now has 333,000 people by the census of 1920, and only has one representative, but it will have more in all human probability when we come to make the apportionment. Now Delaware even, one of the old thirteen states, has increased until it is way over the apportionment number. The only two states that can be mentioned in that connection, that gives any semblance of the claim, are the states of Wyoming and Nevada, and

Wyoming had 145,000 while Nevada, the sick man of the West, the state that was surreptitiously put into the union by the silver kings in the old days when money counted even more than it does now, is the only example, for it only had 77,000 people. Nevada is one of the mistakes of the admission of states into the union. All others have justified the people who said that they would soon meet, if they had not already met, the population requirements of the Constitution.

Can those isolated instances, all of which are corrected by time, be said in any sense to militate against the fact that the House of Representatives is a great popular body representing not only the body, but the heart of the people of the United States, the place where those things which emanate from the people will find their representative, where not territory, not religion, not creed, not color, are there represented, but that the people of each congressional district shall select the man who will go there and present their views on every subject, and they are unrestricted. Nobody claims for a single instant that absolute numerical accuracy is possible in districting or redistricting a state, but it can be done with approximate accuracy. And it need not be done—as I hope you will not think I am exaggerating one particle when I say it with brutal frankness.

Now, let us go back just a moment to the genesis of this idea not of limiting on account of race, for that has gone by, not on account of property, for that has gone by, not on account of sex, for that has gone by, but we do propose to invoke a new limitation which is the limitation of location. The man who lives over the line in Cook county finds himself a certain fraction of the whole of the great state of which he is proud to be a citizen. If he moves over and becomes a neighbor of my friends in Will county, immediately his potential political influence is multiplied. Is that right? Can it be excused on any principle? Ah, but expediency. If there is anything in the world that has wrecked the nations of the past, that has periled the nations of the present, that is the great danger of the future, it is this question of expediency as applied to the detriment and the death of undying principles.

In the State of New York there is a great city. The people of the State of New York outside of that great city are in the habit of pronouncing encomiums upon it. They always say, "We are proud of that magnificent city on the Hudson. We look with pride upon its wealth, its magnificent buildings, its great population. It is a world emporium; the ships of all nations are found in its harbor and the commerce of a great country like the United States ebbs and flows through its streets and along its water front. Why, we are delighted with it, it is a magnificent thing." Of course, no such thing as that has ever been said in this State, but they say it in New York. I think they mean it about as much as some of our friends do when they say something like it here. At any rate, in 1892 there was passed in the State of New York a law for a commission which should have the right to reapportion that state, and that commission reapportioned that state, and that commission, since the political pendulum had swung toward the Democracy, have reapportioned that state in the interests of the political party which elected the commission or had its appointment made, and they did it, and from a political standpoint they did a magnificent job. They fixed it so that the State of New York would be represented by Democrats in the majority, and what was more to the point in those days, that a Democratic United States Senator could be elected by the legislature. They wanted to get the legislature Democratic so that they could send, as they did send, Senator Hill from that state to the Senate of the United States.

Very well. The people would not stand for that sort of thing, it was too raw, and immediately the proposition arose as to the election of a Constitutional Convention which should undo the wrong which had been perpetrated, and that Constitutional Convention, the law which passed it, provided that there should be elected delegates at large from the state, elected by the state at large—something we don't have—and the Republican party—and I am sure nobody will accuse me of being prejudiced against the Republican party—and the Republican party of the state was able to elect three

distinguished Republicans at large from New York City where they could not have been elected at all, and those three Republicans at large were distinguished gentlemen, one of whom in those days was very noted in politics, a Mr. Lauterbach, another man who is still noted, and for whose genius and learning I have the highest possible respect, Elihu Root, and another one, Joseph H. Choate, a lawyer, I can say, I think, without a peer.

These were the men, Republicans, elected by a Republican majority in the down state, or up state as it is in New York always, up state New York elected them from Democratic New York City, and they proceeded in, and by virtue of their ability and their power they dominated the Convention to a very great extent, and then, gentlemen—and I wish to compliment you now—they did what you have refused to do; they took the matter up as purely partisan proposition, and they held, since they had a Republican majority, a caucus, a Republican caucus to determine the question of apportionment and every word that was said in that Constitutional Convention on the question of limitation came from the mouth-pieces, fixed and formulated by a political caucus for a political purpose in order to accomplish a political end. You are not doing it; at least, I certainly would not accuse you of it. You have had no caucus of that sort so far as I am aware, and it has not been for political preferment, because at the present time I think the great city by the lake and the down State are in pretty fair accord on the face of things in political matters; at least, I find that there is no hesitation on the part of my down State friends to make political alliances with the powers that be in the City of Chicago when it is for their own interests, and they are not afraid of the tremendous power for evil which is likely to arise from putting anybody in power, whether in office or behind the office, by such manipulation.

What happened? The people in New York made an apportionment, and I want to say right now that nowhere in the Constitution of New York is there any such restriction as you are trying to put on here, not for an instant. They have never undertaken to do it, and they have not done it, and I want to say to you today that there is nothing to prevent in the Senate of New York the City of New York from having a majority in the immediate future, not a thing. Instead of an iron bar being put up to progress and to representation, it is left so that there can be a progressive representation of the great city of New York, of which at least in lip service they are so tremendously proud.

Do you say I am making a statement that cannot be substantiated? Let me read you just a few extracts from the debates on the floor at that time when this partisan measure was under consideration. This is in the Constitutional Convention of 1894. I am not reading now from the debates in the Constitutional Convention of 1915, because that Constitution was defeated at the polls, whether it was defeated on account of the attempt to perpetuate what one of the delegates characterized, and which may have been perhaps the precursor of some of the statements of our friend Bryan, who spoke so entertainingly to us, the crime of '94 in this behalf.

To show you what they thought was a gerrymander in the state, let me read for a moment. In the record of the Convention at page 1844, one of the delegates rose and said as a conclusion to some remarks that he had made:

"So that you see under this beautiful scheme, which seeks nothing but fairness, that while 35,500 population elect a Republican member of the Assembly, it takes 40,566 to elect a Democratic member of the Assembly; and yet, there is nothing of the gerrymander about it, and it is put into the Constitution to prohibit wicked legislatures from ever gerrymandering the State. Any legislature that can get up a more beautiful scheme than that ought to have a medal. I do not believe there will ever be one in the State."

A Mr. Bush, who took a very prominent part in the debates of that Convention, said—they were discussing this very thing that is now in the Constitution of New York, and which has been lauded by our friends as the model for us to follow:

"Now, Mr. Chairman, if this proposed method of apportionment is not a raid upon the great centers of population of this State, upon the cities of this State, upon the Democratic regions of this State, I would like to hear some gentleman give any other explanation of these surprising results. I cannot understand, Mr. Chairman, the intense hate with which some of the delegates upon this floor seem to regard the great cities of the State. They never hesitate under any circumstances to villify them, to in every possible way cheat them out of representation, to load them up with surplus taxes, and to deny them the representation in the legislature to which they are entitled. Why it is I do not know. The great cities of the State are centers of wealth, intelligence, culture and refinement. The great cities of the State support the charities. They form the public opinion of the State to a great extent, and it is in the great cities of the State where public sentiment makes itself soonest felt."

Now, there was nothing political about this arrangement. Mr. Speer, another delegate, said:

"Mr. Chairman, this proposition should be entitled, 'Proposed constitutional amendment to disfranchise the Democrats of the State of New York and to guarantee a Republican majority of the legislature for twenty years.'

"If this decree of your Republican caucus is incorporated in the Constitution the voters of the State who are not Republicans may as well give up forever the hope of having an effective voice in the government of the State. 'For the purpose of protecting the minority and of limiting' the partisanship of the majority, constitutions have been devised'."

I learned that in my infancy as a lawyer, that constitutions were instituted among men for the protection of the minority against the aggressions of the majority. Must I unlearn that proposition?

"The vitality of a Constitution consists in its statement of principles which shall be a protection to every citizen, and which in this protection shall enfold all the principles of American institutions and all the guarantees which are due to individual liberty, personal freedom, and equality before the law.

"Further than this a Constitution should not go. If it steps over these bounds, it defeats not only its purpose but itself, for no Constitution with a proposition like this of yours which outrages these principles and surrenders these guarantees will ever be accepted by the people."

Again, in speaking of the three delegates at large who dominated that Convention, and who have been quoted here and are constantly quoted as the apostles of this new form, which means the restriction of a part of the state in order that another part which has a minority or may be a minority, shall govern:

"This is the first time you have ever had an intimate experience and close contact with such pre-eminent leaders of the Republican party of the city of New York as there are in this Convention. Their conduct here should drive away your wonder. There are in this Convention three delegates at large from the city of New York, all Republicans. Two of them reside, and, when they condescend to vote at all, vote in the district of which I have the honor to be one of the representatives. One of the delegates at large, Mr. Lauterbach, we honor as a man and we respect as a political foe. The other two have directed the work of this Convention. I am proud that such an honor has befallen two of my constituents. For years they have taken an active part in politics not only in one senatorial district, but throughout the city of New York. They have preached the doctrines of class distinction, religious intolerance and contempt for the mass of the people."

Mr. Root himself confesses the political nature of this proposition in his address which I have found printed here, and from which I make this extract simply for the purpose of showing his political bias, and when we get through, I shall have to call your attention that the legislature elected under this Constitution, with New York City restricted so that its Democratic majority only had some slight force, Mr. Root was elected United States Senator. Mr. Root said:

"We sent to your legislature a majority of all its members responsible to one political organization in that one municipality—responsible, if the present system of political domination which now obtains in that city is continued, to one man for their votes and their actions"—showing that he had in mind Tammany, the Democratic vote that they were bound to suppress, and they did it.

You and I may think that that was a benevolent object, that it ought to have been done—and when I am a partisan and partisan only, I perhaps would applaud that as very crafty political engineering, but when I am standing here, as we all are, simply as citizens of the State of Illinois, simply as citizens who have nothing in our minds but the good of the State, I say we don't approve of that kind of thing.

Why, they had the same trouble down there in New York. Just let me call your attention to that, and then I am done with this sort of thing, except when I call your attention to results. Mr. Delancy Nichol, one of the leading lawyers of the city of New York said—and I want to call your attention that in all of the things which have been taken from the speeches of Mr. Root, or Mr. Choate or Mr. Wickersham in a later convention, or any of the other gentlemen who have been so thoroughly quoted, there is not one word, there is not a syllable on the proposition that you are creating a privileged class and making it so that the minority will forever rule the majority. That question is evaded and perhaps the reason for it was that this act which was passed by New York does not do that thing. I will show you why in a minute. Let us see about this partisanship, and let us get that off our minds.

Mr. Nichol said: "When I joined this convention I entertained the notion that I was taking a vacation from politics. I believed that in the last decade of the nineteenth century Americans were patriotic enough to leave partisanship out of the convention. I had no desire to join a political debating club or to be a member of a convention dominated by a caucus lashed into line by the party whip and existing mostly for the partisan advantage. I do not wish to be understood as ascribing to the majority of this convention at the outset a desire for partisanship advantage alone. I can quite understand the distinguished gentleman from Cattaraugus who a few days ago upon the floor of the convention said that he came here not as a Republican, but as a citizen consecrated to the service of the state alone. I entertained the notion that the majority of this convention when they first arrived here were animated by that same spirit. But, Mr. Chairman, partisanship is a contagious disease. You cannot live in its atmosphere without absorbing its virus. It subdues and attacks the most rugged constitutions; it overcomes and makes its victims the most patriotic and benevolent of men. I have been curious to study its ravages in this convention. Brought here by a small and uninfluential minority, of the majority, it soon began to spread. First, the weaker vessels fell and then, finally, the strongest and most vigorous members of the majority became its victims, until now the whole of you are almost eaten up with disease.

"What was the design? Now, who does not know it, who cannot understand it, who on oath would deny it? What was the design? The design was to secure to the Republican party the control of the legislative branch of government for half a generation at least. It says to the people of this state, 'You may elect your governor and state officers, you may elect your judges, but we will make your laws and elect your United States Senators until the twentieth century is well under way.' For this you postpone the census, for this you make the new apportionment, for this you divided counties by a new classification, for this and for this alone you sacrificed cities and aggrandized agricultural interests, for this you defied the law of population and the whole order of current events, for this, sir, in defiance of experience, in contempt of history, in disregard of any just law of apportionment, you have been willing to violate the law of population, to subordinate population to territorial representation. And now you propose to

soil the white pages of the constitution of this state with the mire of partisanship itself. That is the design of this apportionment."

What did they do? What do the figures show, and why is this scheme of county apportionment, which was applied to New York, utterly inapplicable to the State of Illinois? I think I can show you. The State of New York is the only state, save Pennsylvania, which has a larger population than our own. We are the third state in the union. We are the third state in population, but we are way beyond either New York or Pennsylvania in the area of our state and in the number of our counties. New York has 60 counties, Pennsylvania has 67 and Illinois has 102. If you were to make county representation in Illinois at all comparable to county representation in New York, you would have to increase your lower house to 255, because the lower house in New York is 150 and only 60 counties. Pennsylvania with 67 counties has 200 members of its lower house, and if you were to apply county representation to Illinois, as you do there, you would have to have that lower house 358.

Again: New York is an older settled, a populous state. There are but three counties in that state which have less than 20,000 population and none below 15,000, and two of them have been united for representative purposes. The State of Illinois has 4 counties between 5 and 10 thousand; it has 15 counties between 10 and 15; it has 18 counties between 15 and 20; 22 counties between 25 and 30; 19 counties between 30 and 40, and 5 counties between 40 and 50. That is to say, you have in this State 83 counties which have less than the 50,000 which you have made the ratio of our representation in Cook county, 83, every one of them sending a member to the legislature, and yet, the total population of those 83 counties is less than two wards in the City of Chicago.

Now, in the State of New York there are 4 counties between 20 and 30 thousand; there are 13 between 30 and 40. Therefore, there would be 28 counties in that state which would come below the ratio that you propose here, but look at the rest of the counties: Between 50 and 60 thousand there are 4; between 60 and 70 there are 5; between 80 and 90 there are 4; between 90 and 100 there are 2; there are 7 between 100 and 150; there are 2 between 150 and 200; 1 between 200 and 300; 3 between 300 and 400 thousand; 2 between 500,000 and 1,000,000; one of 2,000,000 and another of 2,750,000.

Mr. MILLER (Cook.) Judge Cutting, how many representatives would those two wards have as against the 83 down State?

Mr. CUTTING (Cook). I have not figured that out, but it would be something like 20.

Mr. MILLER (Cook). What is the population of the 83 counties?

Mr. CUTTING (Cook). I have not got the exact figures, and I won't undertake to state it because I don't want to make any mistake about it, but I figured it out and stated it.

Now, let us see what they did in New York, let us see what the pattern produced there: The Senate in New York consists of 50; the house consists of 150. When this Constitution was adopted, the City of New York had 12 senators out of 50, less than one-fourth, but as time has gone on and under the elastic provisions of this apportionment act, the City of New York now has 23 senators out of 50—not one-third, but almost a half, and as time goes on, unless this matter is changed, the City of New York will have a majority in the Senate of New York, and it won't hurt anybody on earth if they do, because the house is so fixed that it will always remain in the country. Now, if the city had a majority of that senate and the country had a majority of the house, there certainly would be no injustice to anybody.

It has been suggested that all legislation would be a matter of compromise. All legislation is a matter of compromise. Our constitutions are matters of compromise. There is not the slightest question about that proposition and it always has been and always will be so. The City of New York has 62 members of the General Assembly out of 150. That is a larger proportion than we get here. The City of New York is a larger fraction of

the state than we are of the State of Illinois, and perhaps that is only just if this scheme of county representation is at all just.

Gentlemen of the Convention, I have but little more to say on this subject. There are a thousand things that could be said. I am looking in vain for anything which in the slightest degree militates against the statement of some of the leading courts of this country on questions similar to this. I have just a word to read and then I close. In delivering his opinion in the case of Giddings against Blacker, reported in the 52nd Northwestern Reporter, at page 948—and it should be remarked in passing that this gentleman afterward became the Democratic candidate for governor of that state—now, this was an apportionment matter, and it was under a constitution, I don't want to be misunderstood about that, he says:

"There is no higher privilege granted to the citizens of a free country than the right of equal suffrage, and thereby to an equal representation in the making and administration of the laws of the land."

It is no answer to that to say that somebody else can do it better. It is no answer to that to say that some other form of government would be better than ours. It is ours and we want it. It is no answer to it that if you would take your appeals to the Court of Exchequer in London you would get better decisions than you would in the Appellate Court in the State of Illinois. We don't want to take them there. We will take the faulty decisions of our own people, if they be faulty, which I doubt, rather than the higher and better decisions of a court that is not ours, and it is a mockery to us to say things will be done better if you let somebody else do it than ourselves. We shall be quiescent infants in the hands of our superiors. We shall take our brethren from down the State by the hand and say to them, "Lead us into the green pastures and by the still waters where we can get justice, and get right better than by any possibility we can give it to ourselves." We don't want to dominate you nor anybody else, and we don't want to be dominated when we are entitled to at least equal representation with you. That time has not come. We don't ask it now. We are only asking that we shall have proportionate representation, and we believe, with the eminent jurist, that there is no higher privilege granted to the citizens of a free country than the right of equal suffrage, and thereby to an equal representation in the making and administration of the laws of the land.

"Under our State Constitution the right of the elector is fixed. To him equal representation is a right, as well as a privilege, of which the legislature cannot deprive him. These wrongs have been committed for partisan purposes. Their object and effect have been to deprive the majority of the people of their will in the administration of the government. The greatest danger to our free institutions lies today in this direction."

I said in this house just a day or so ago, how long will it be when territorial limitation has the sanction of this body before sect limitation, religious limitation, race limitation, wealth limitation, will be the things that will be called for, because the thing of the moment seems to ask for some such thing? Oh, gentlemen of the Convention, don't let this opportunism, this thing of the day, blot out the eternal principles of the ages. Don't let the thing that you have a doubt in for the State prevail over what you know to be the great underlying law of popular government everywhere, that the will of the majority shall rule under constitutional limitations, not limitations of the right of everyone to be heard, but limitations so that the person who is in the minority shall not have his rights trampled upon in the frenzy of popular disapproval.

So again another quotation, and that is all. Another eminent jurist said:

"The purpose of the constitutional enactment is to secure as nearly as possible equality of representation. Any apportionment which defeats that purpose is vicious, contrary not only to the letter, but to the spirit of our institutions and subversive of popular government. Power secured or perpetuated by unconstitutional methods is power usurped, and usurpation of power is a menace to free institutions. The greatest danger to the republic

is not from ignorance, but from machinations to defeat the expression of the popular will."

Gentlemen, I close with a little incident in my own history. It was once my fortune, good or ill, to be taking a deposition before the American Consul in Belfast, in Ireland. It became my duty to cross examine a very intelligent witness, and I began my cross-examination by saying to him, "You are, I suppose, a citizen of the United Kingdom of Great Britain and Ireland?" And he came back in an instant. "No, sir; I am a subject of Her Britannic Majesty, Queen of Britain and Ireland." He was indignant that he should be called a citizen. He insisted that he should be called a subject. The application is evident, but it lies here: He was subject because his will was not equal to everybody else's will. I shall take on some of the elements of the subject when this becomes a law, as it will, and you shear me of equal power with you to affect the legislation of this State. You will say to me, "Citizen in name, yes. You are limited to one-seventh of the last judicial tribunal of this State. You are limited to one-third of the Senate, and substantially to one-third of the House." 2,500,000 people would have to be added to Cook county and none to the down State, in order to make our representation in this House—I mean the House of Representatives of this legislature—equal to that which the down State will have, and that would require that you, as I say, stand still, which you will not, I hope.

God knows I have no feeling against the down State. The people of Chicago never talk about that thing. I take it it is so down State, or else there could not have been that unanimity that there is. I come here, knowing, as I said, of the difficulties with that, that there would be a limitation in one house, and I assumed that it would be the Senate, and I came here prepared to vote that there should be, in order, as you gentlemen talked at one time, for protection of down State against Chicago, that you should have a substantial majority in the Senate. I am ready to do that now. All my brothers from Chicago are not so willing, but most of them are; but I protest with all the power I possess, I urge you think well of taking away the popular equality of the lower house in your legislature and turning it over, as it will be turned over in ten years, to a minority of the people of the State of Illinois, who with their ample majorities in both houses, will beyond all question have the power to do those things which you think we will do to you if we were in the majority.

Mr. Chairman, I thank you. (Applause.)

Mr. McEWEN (Cook). After the splendid and complete address on this subject by the gentleman who has just taken his seat, it would be fitting, in a sense, if the debates were closed for the side representing the City of Chicago, but there are some things that in duty to myself, my associates and the constituents of Chicago as well as the State at large, I feel should be said, in order that more particularly there may be no misunderstanding as to just what is being done here today, or our understanding of what is being done. I have already expressed myself prior to the summer vacation, and I have not changed in the months of reflection and opportunity for thought that have followed, and in one view, I feel in the language of the great poet, "If 'twere done when 'tis done, 'twere well 'twere done quickly," whenever there is an act of a wilful species of brutality to be perpetrated and this is a piece of arrant brutality of powers, and no weasel words will take out of it that character.

I have heard some expressions here of a reason why this thing is to be done and the only reason that I have been able to gather so far as the statement is concerned, is that there is some objection to congested districts of population in a popular government. The real reason if there be a reason, is that some people down State fear the people of Chicago and fear the possibility of their preponderating powers in election and future legislation. That argument has not been developed. If it were a menace then all the down State needs in fairness is a sufficient limitation in one house which would prevent this supposed overwhelming avalanche or inundation of the barbarian of the North. But these gentlemen do not wish to stop with the necessity of their own protection; they wish to go further and

secure for a lot of counties regardless of population, a county representation and in this the measure goes beyond the supposed necessity of the situation of meeting this great terror of the great masses. To the extent that it goes beyond that, the consideration is actually political and personal, and the practical effect of it is to take what representation belongs to another part of the State, to Chicago, to Peoria, to East St. Louis and other large cities, and give it to small counties in order that each may have a man in the legislature who draws thirty-five hundred dollars for his services, or any such sum as the legislature may fix. That is the bold bald fact, and we shall listen with interest to find any other real reason for doing this thing. So when you cover this up with words and talk about a county being a kind of body politic or any part of the social center, where social ideas gather and create a unit, you deceive no one. You have the vote, you have set the machinery in operation and I expect you to carry it on through to the end. You have selected your leader, a gentleman whom I respect, he has presented the matter with great skill. I like him and I like you all, but when it comes to the effect of what may be said in appreciation I can see by his set face and your set faces that you are determined to go through to the end. You are listening to us. One of the great American principles is free speech, you grant it to the condemned man before you sentence him to the gallows. He is asked if there is any reason why the sentence of the court should not be given, and as he stands on the gallows with the rope around his neck, you give him an opportunity to send his message to the world. We have a great country of free speech and we have not been denied that.

We have some principles that underlie Constitution making we are told, and we listened all one interesting day to the enunciation of principles as applied in the history of this country, but I learn now that there are some other principles that are applied and are being applied here in Constitution making, when it comes to getting representation in the legislature, and one of the principles is an old one, as old as Adam, running through the tribes, and the nations and through all history, let him get who has the power, and let him keep who can.

Gentlemen, you have got the power to get it, get it while the getting is good. Stand up here and vote. When it is done, when you do it, quickly or otherwise, be sure it may not return.

I am not one that has been terrorized or influenced because the picked members of outside State organizations have walked up and down the galleries of this house for hours as we have sat here in our deliberations. I am not terrorized nor am I influenced because members of other organizations have felt that they were doing God's service to limit Chicago. We are all here somewhat in an attitude of looking to expediency, to doing the practical thing, to doing the effectual thing. I am not expecting any conscience from any group of men in this body or any other place because I do not expect groups to have consciences. Consciences, so far as representatives in an assembly of this kind, groups of men going together, is simply a fear or respect of consequences and nothing else. I heard the Chaplain this morning pray that we would proceed in the spirit of fellowship and fair play and honesty. I don't think he came from Chicago either, but he did have a conscience,—I concede to no man a broader spirit of fellowship, a broader spirit of fair play than I feel towards my fellow members of this Convention, the circumstance of our different location means nothing to me. My heart strings go back to my home county and the people of it just as much as it does to the people in the community where I live; I talk to my brothers plainer than I do to anybody else, and my brothers talk to me plainer than they do anybody else, and we don't get angry at each other either, so I approach this in the broadest spirit of good fellowship, whether I have been assisted by this prayer or not, and being on the losing side of this proposition I can appeal to the spirit of fair play possibly more readily than those on the majority side can concede. When we come to the subject of honesty I know that you gentlemen believe that you are honest about it, I know you have worked yourselves up with a lot of specious

arguments and reasons until you believe them yourself. There is an old saying that I believe is attributed to Lord Coke, that "men believe what they wish to believe and forget what they do not wish to remember," and I apprehend that there will be no difficulty, in a man, who sits in one of these little counties of about eight thousand inhabitants, believing that the county as a political organization ought to have a representative at thirty-five hundred dollars a year in the legislature. Without impugning anyone's honesty—when we put this up to the test of reason and fairness and justice, that we have heard so much about, it won't stand the test.

I am going to reply to the hidden argument that is in all of your down State minds, and is the one great argument that you really justify yourselves with, of limiting Chicago, that is, that we are a menace by reason of the character of the population, not because we are a big population. That is the thought that is in your minds. You have not expressed it. Of course there is another principle that does not apply to a Constitution but which is applied in Constitution making, which always goes where there is something of doubtful morals to divide, and that is a principle of mathematics where you apply addition, division and silence, and I hope somebody before we get through will come out and state the real reason why in his mind he is justified in doing this thing. We have an immense growing population, and people always invite people, people go where people are, that is a fundamental proposition of the increase of population. Industries go where industries are, and having that enormous start, it will grow in the future probably much greater than in the past, and you are fully warranted in believing that Chicago will grow and grow beyond the imagination and the minds of any of the present generation. In that great and growing population we have probably sixty different nationalities, which Mr. Stryckman told you about on the evening of his address to this committee. We have large groups of Germans, of Poles, Scandinavians and so on, in lessening numbers, continuing to run through the whole line of civilized nations, but are those men unfit for American citizenship? Are they unfit for representation according as other men are represented, who are located elsewhere? Down in your heart you may say that great cities, and the great City of Chicago is a fostering place where the evil influences of this country congregate, fester and grow, and their influence extends throughout the entire country. It is true that the great city offers opportunity for all crimes that seem to make, as you read the newspapers of the day, them a place, and a special place where sin grows, but it is not as I take it to be condemned nor are the great masses to be condemned because of the very small proportion of criminal classes that exist in any great city. Is there any question about the patriotism, about the citizenship of any of these men? Not in the slightest. They pay the taxes, they vote upon themselves bond issues, and taxes and more taxes in order that they may have beautiful parks, that we may have a great system of parks, great systems of boulevards, all kinds of institutions, and progressive ideas that make for the betterment of the children and for the bringing them up into good citizenship and for the happiness of our citizens who live in the City of Chicago. The foreigner comes in and takes his part, takes his burden along with the rest and he knows about as much about what is going on in this country and what he wants as the American born, largely because he has the means of contrast. I recognize that there are foreigners who come here with wrong ideas, who haven't an understanding of our American institutions, but those people take no part as a rule in the voting of this country, and the great overwhelming masses of the city are just as much set against that class of people as you could possibly be, and if the day ever comes when they ramify and extend their doctrines throughout the entire mass of the city, you may be sure it will override the country, because when Chicago falls, the country will fall just as inevitably, as season will follow after season. You cannot exist with us off our feet and we cannot exist without you on your feet. I don't know of any disposition to override or overrun the down State. The man in Chicago never thinks of prejudice against the down staters. You may say that he has no reason. Well he could find

some fault if he took the time. Perhaps he would find you pretty much like the rest, and that you do things that would not line up with all the rules of right conduct but you haven't any bigger percentage of that sort of thing than the rest of the communities through the State, and we are all much alike when we are put to the test. When you look at the great City of Chicago and see how its foreign born people strive, how they work to build up this day's civilization, and if you lived among them, you would realize it was an outrage to them that the right of representation be denied, because he was born on the foreign soil and is not just exactly like the rest of us who are born here. That is exactly what you are doing, and you are doing it upon a mistaken idea. You who may be proceeding from principle and not with the thought of the seizure of something which may be of advantage to you or your community, you are proceeding mistakenly when you give a reprehensible character to our foreign born population.

Did they shun the burdens of the late war? I heard one gentleman from down State say, how well they responded down State. The United States Government put a quota on the City of Chicago of four million population, nearly double what it should have borne? The City of Chicago took it without a whimper and furnished a quota based on that supposititious population of men, money and other means of support of the war. It has never failed on any question or test of patriotism. We make sensational news. The headlines of the daily paper give false impressions in matters which you may not agree with. In the great city, every kind of propaganda can be spread or started and we live in a world of free speech and free expression. Men say what they wish, and we who live there, have the burdens we admit, but we are working them out on Americanizing and American lines. You say you are going to take away from us some of the political power that is our own by every principle of fairness and right, and take it unto ourselves, that you can find more patriotism and more loyal support of the government in a county of ten thousand inhabitants based upon county representation than you can in over one hundred and fifty thousand inhabitants in some of our districts. That is not true. If you think it you are mistaken. If you come among us and investigate us you will find you are mistaken. You think by placing this proposition on a separate ballot, you have conceded something in fairness. I don't think you have. You have the power and I would respect you if you would say you did it because you have the power. I would just as soon see you do that as I would to see you try to avoid the responsibility of an atrocious piece of constitutional legislation by putting it on a separate ballot.

I heard the gentleman talking and talking here about representative government, and about who is going to be represented. I have heard it said that we should not have a referendum to the people or submit to a referendum, yet you want to make this a special referendum in order to pass up the responsibility in the hope possibly that on a separate ballot it would be lost on a close vote. It would take all of your strength and all of our strength to put before the people in such a way they will declare it a progressive Constitution such as we are proposing to make.

I cannot help but believe that this Constitution as designed here, will be an enormous advance of anything that has been in this State in the past, that we are keeping up with the progress of the times, and yet you are jeopardizing the entire instrument by a piece of personal unfairness and selfishness that cannot be defined anywhere on any other ground than unselfishness. You may say look out for Chicago, and you may terrorize the people who do not know, and you may get some votes that way, but you will not deceive the people who live close to Chicago or who have very intimate knowledge of the conditions in the City of Chicago, and you cannot get enough votes to carry this Constitution unless it be framed in that spirit of fairness and justice that will appeal to men. I have heard men say in this Convention that they believed in making a Constitution that they believed was right, and let it go up or down just as it happens, just as the people willed—their conscience was clear. And I have heard a delegate say, "well, when I think a thing is right I just seem to set and I cannot

change" and inside of fifteen minutes I have seen that man out in the cloak room dodging a vote on the subject on which he said his muscles were all set. We are all very human. One of the judges of the Supreme Court said the other day that the judges of the Supreme Court are human. If they are human then we may have the right to be human. And if we are human, then we may assume that our constituents are human, and therefore, in a spirit of fairness we ought to get together and look this thing in the face, rather than try to find a reason for doing something. I have read many of the opinions of the courts and I have delivered a few, some good and some bad, so the upper court said, and I have often thought that in some cases judges get the result that ought to happen in a case, and then look around for the reason to justify the conclusion. Sometimes we give a good reason and sometimes we don't. The test of the conclusion is often the reason for which he wishes it to be, and I have yet to hear expressed on this floor any opinion which is entitled to any consideration on this subject. I have tried to look at this subject from the standpoint of the down stater. We are sometimes excitable, I cannot conceive why a man down State would think he was in danger of being overwhelmed by the barbarians of the north, as in the days of old. He reads the headlines of the morning papers, he comes to the conclusion that we are a bad lot of people up in Chicago, and that he is entitled to some protection. I don't think he can get the protection that he imagines, by merely changing the representation in the legislature, but if he thinks it is going to have an effect on the legislature then he is very strongly in favor of having the representation in the legislature changed. I have often thought that the delegate who left his community in that state of terror of Chicago, might find a very little sympathy in the epic made immortal by Macaulay, "Horatius at the Bridge." Horatius at the bridge did stand, supporters by his side stood, and held the bridge against the northern invaders, held it until they could mass behind them, and saved the City of Rome. I don't think I have imagination enough to draw the picture, yet our down State friend may have that wonderful imagination that sees in himself a similar man whose duty it is to put some protection in this Constitution. You may go down in your county of ten thousand inhabitants or less, and you may be able to explain it, but I don't think we can explain it to the City of Chicago. Especially don't think we can explain it to them when the salvation of your conclusion rests in an assumption that the men up in Chicago and the masses of Chicago are to be feared. A couple of days ago here I heard the argument advanced by a notable authority that all the appeals in court cases should be of the volume and size that could be handled by seven men, now, and hereafter, and if it was necessary to either increase or decrease the volume of business why decrease the business. That was a new constitutional principle, and if it has a parallel it is the old saying that "if golfing interferes with your business cut out the business." Another constitutional principle is now if you take a county which is never big enough to have a representative in the legislature by itself, why just declare "the basis of representation is the county line and take it out of some other place, the City of Chicago can stand it, they have got a lot of Poles and Germans and Italians and colored men, and Jews and people of that type, and they can stand it and they won't know the difference." Maybe they haven't got sense enough. My main purpose, gentlemen, in taking your time is to let you know that we have sense enough to know what is being done here, and that you are not heroes in doing it. You may be a statesman in the sense of a man who is in a position of authority for the purpose of inventing excuses for the organization that he represents, which is a good principle, which goes along with some of the others which are being applied in the making of the Constitution, and you may dream as you sit in your little parlor in your home as you look up at the picture of George Washington and Abraham Lincoln, you may dream that some day your picture will be alongside of them as one of the great representative men who have upheld liberty and the rights of the people, and you may dream that some poet may write of you some epic that will immortalize you, some poem that may conclude as you think of the coming

generation who will be obligated to you, and you draw that picture which Macaulay draws around his hero.

With the children around and all filled with patriotic joy "with weeping and with laughter, still is the story told, how our constitutional delegate, brought home the bacon in the brave days of old." You may dream that gentlemen, but you better sleep it over, before you write it down as a fixed conclusion. This ignoble art can never be made noble and respectable.

Mr. CUTTING (Cook). I find I made a statement which cannot be substantiated. What I intended to say was that there are forty counties in this State not equivalent to four wards in Chicago. I wish to make my statement to that effect.

Mr. HULL (Cook). Mr. Chairman and gentlemen, I wish to make a few remarks, not with the expectation of changing any one's sentiments, but for the purpose of making some protest against the action you are going to take. It is so unjust, so unnecessary and so artificial in its origin and so sure to plant the seeds of future discord between the two sections of this State. It is unjust, and one of the most interesting acknowledgments of that fact came from the gentleman from Macoupin in the early days of this Convention when he introduced a proposal to amend the bill of rights, and the bill of rights said that all elections shall be free and equal, and in his proposal No. 280 he made the admission that so far as legislative apportionment was concerned, insofar as that phrase was concerned, they would not be free and equal because he proposed that the bill of rights should say that all of the elections should be free and equal but no basis of the General Assembly as provided in the Constitution shall be held to be inconsistent herewith. And I say it is without reason, and it is without reasons. If it is necessary or desirable for the purpose of protection of the territory having population outside of the City of Chicago to limit the City of Chicago in its power in the General Assembly that can be accomplished by limitation in one house, and it is not necessary to have a limitation in both houses. I said it was artificial, you know it is artificial, and except for the misguided zeal of a few excellent gentlemen who are men of one idea who have been claiming that idea and promoting that idea up and down the State this limitation would never have taken place, and those gentlemen, and you, as you predominate in this assembly, are just disregarding the principles of democratic government in your action. There has never been any real issue between the City of Chicago and the rest of the State. In fourteen years in the General Assembly I have never seen any, and no single instance has been presented to the Convention of any real exercise of power or attempt to exercise power by the members of the legislature from the City of Chicago to the disadvantage of the rest of the State. By the action you are taking however you will be creating an issue between the City of Chicago and the rest of the State. You have voted down the initiative and referendum, and you will be creating an insistent demand for it which will be continually presenting itself to the General Assembly as a proposal for a constitutional amendment. You are introducing into the organic law of this State, gentleman, an Alsace-Lorraine for all time in the future, and I believe you will sincerely regret it. I make my protest against the action which this Convention is proposing to take.

Mr. MICHAL (Cook). Mr. Chairman and gentlemen, I cannot let this opportunity go by without passing a few observations upon a few things that have transpired within the last few days. I trust you will accept what I say as coming advisedly, not with the spirit of sour grapes, but coming from a person whom some have denominated as an iconoclast.

Gentlemen of the Convention, the basic law of our State under which we are operating at this time, and which has been in force for over fifty years, has been the ground work on which the legislature of this great State has been founded, and during that period the Constitution provided that when a member of the General Assembly was to be sworn into office that his oath to which he was subscribed as a condition precedent should be an allegiance and a compliance with the Constitution of 1870. I cannot sit here

as a member of this Convention representing the great cosmopolitan district in the City of Chicago, the ninth senatorial district that takes in a part of the great people that live about the stock yards, that has somewhere in the neighborhood of forty different and distinct nationalities, and go back and say to them I have been particeps crimines, and I again say that I use this term advisedly—to barter away their right to honest and fair representation, and I have no right to subscribe to political heresy, to political fanaticism, to political fourflush, as have fifty-three or fifty-nine members of this Convention, banded together, whipped into line, not through Christian spirit, not because they believe in it inherently as a matter of right and justice, but because the only compelling factor was that the down State shall have all of the political plums in life. There is no use of our mincing words. That is what it is, a proposition of giving you fellows a lot of jobs. I am a little brusque, and a little plain about it. My distinguished friend, Judge McEwen, handed it to you a little nice, he employed choicer language when he said you were coming home with the bacon. Gentlemen of the Convention, I have never yet in my young life stood for anything that was an injustice. I thank God that he has endowed me with a spirit of fair play to my fellow man, whether he comes from the remotest and most sparsely settled sections of the State of Illinois or the most congested territory, in the City of Chicago. I was willing at all times to go along on the principle of fair play, guided by the great saying of the Maker of the Universe, “to do unto others as you would have them do unto you.”

But gentlemen of this Convention, I cannot sit here and have political rape committed on me or the people I represent, and when I am in that perilous situation I am impelled in order to preserve my political virtue, to flee.

Gentlemen of the Convention, you forget that you down State people are in the minority. I challenge you that it is a political bugaboo that you are trying to flush on the citizenry of this great State when you say that the aggregate of the thinking people, of the free people and of the fair-minded people of the State, be they in the northern part or the southern part or the eastern part or the western part of this great State, are in favor of limiting the representation for any people anywhere situated. I say that is the old political harangue that has been used continuously for the past twenty years under this Constitution. I say to you that you have succeeded by political manipulations and machinations to get your representatives here to violate their oaths of office and in defiance of the Constitution of this great State, refuse to redistrict and refuse to reapportion this great State as your basic document provides. Gentlemen of the Convention, I know of no one who stands in a position of being better classified as a traitor than one who wilfully disobeys the law to which he has subscribed himself to follow, by the taking of his oath. I say that your representatives who have been derelict in following the mandatory provisions of this Constitution, while there may be some discretion and some difference of opinion if you please, that this reapportionment feature of the Constitution is not mandatory, I say it is the vox populi, whether you would put a fanciful or other construction on the language therein employed, and it must be acted on. Gentlemen of the Convention, you might be drunk with the victory at the last election. You stand here about eighty-four Republicans and we have but a handful of Democrats—and in passing let me say that I am proud to be a member of the party of Jefferson, of Jackson, of Wilson, and not to say the least, of James M. Cox of Ohio, I am willing to stand for a principle and I am willing to go down with the principle, but I will not barter and I will not vacillate, but gentlemen of the Convention, if you think you can come to Cook county and get the Democratic vote to support this document of iniquity which you propose to submit to the voters for their approval, I say to you—spare yourself the effort—for democracy united will never stand to be deprived of representation in the General Assembly nor in any legislative body in this State. We will have something to say about this and let me say to you not in a spirit of bravado but in a spirit of warning you in advance, that in the district where the distinguished chairman of this com-

mittee and myself hail from, that you will be lucky and extremely lucky if you please, if you will average five votes to a precinct in that district of eighty-nine precincts, in favor of the ratification of the Constitution which you propose to submit with this unspeakable proposition of denying Cook county its fair honest representation. There is nothing greater in deliberative bodies than to have factions or parties, and it was deemed at the time of the writing of this Constitution in 1870 that minority representation be it either on the Democratic side or on the Republican side, was wholesome and had a great effect, and was a safety valve and a check upon unfair legislation, that it brought about a spirit of rivalry tending to bring about the best results of the deliberative assembly. In this morning's paper as I picked it up I find that the great Democratic party, though temporarily obscured from vision, from the blind vision of Republican partisanship, if you please, was successful in carrying only three counties in the State of Illinois, but gentlemen, let me point out to you, in the City of Chicago, conditions I am familiar with, that if the election took place today or tomorrow or in the next two years you would not know that there is a Republican party because there will be great manufactories, the great industries, having streams and streams of men standing in line, before the employment clerks' office seeking to gain means of a livelihood, even under reduced wages. Gentlemen, don't kid yourselves that we won't be with you. We will scrap you right down the line because democracy has never had in its line yellow men, men not filled with red blood and courage, to voice our contentions anywhere, even though they are only one in fifty or one in a million. Gentlemen of the Convention, upon the consideration of the judiciary article here the other day I witnessed a spectacle that appealed to me and almost took my breath away, when I saw that there was a little wavering on the other side as to whether or not the judiciary article ought to contain the provision of seven judges of the Supreme Court, giving one in the Cook county district, with the other three or four adjoining counties, and the balance of the State, six. Gentlemen, I witnessed a tremendous scene because I believe that no actor or tragedian will ever duplicate the same fine clever, scientific manner in which it was demonstrated here. I saw that there was a feeling, imbued by a spirit of Christianity, one district, when I saw that there was a break, I saw the distinguished delegate from Champaign rise, and he rose with all the splendor of a man of imperial command, and he sclemnly and unmistakably made seven steps, raised his hand up and down in dramatic style and harangued you and lo and behold! the sheep came into the fold and followed the leader with the big stick, and you voted solidly against Cook county and you took away from Cook county that which Cook county has asked only as a matter of right and fairness. I do not wish to speak deprecatingly of the distinguished gentleman from Champaign. I admire him and I wish we had leaders who were as astute, as nimble and as capable as he, but I say to my down State friends it was a fine confession of weakness. It was a fine demonstration of the fact that you fell for domination, the kind of which even in my young existence I never dreamed existed anywhere, even in ward meetings. My friends, if the dear people in your district ever saw that side I am afraid some of you would be walking home wearing out shoe leather.

Gentlemen of the Convention, and particularly you of down State, personally I have the greatest affection for all of you, and while I despise the treachery which you have committed to us the great people in the City of Chicago and in the County of Cook, nevertheless I am impelled to say if you can go home to your respective districts I think you will be met at your respective depots, when you alight from the trains which will bear you to the great center of your activities, by the town band and by the children shouting, "Here comes our hero; he beat them there city fellows to a brown frazzle." My friends, I think that is the only edification you can expect, but I say to you, my friends, while you beat them there city fellows in the Convention, while you have been in a position where you could sit on their necks and suck the life out of them in a legislative way, them there fellows from the City of Chicago will play hell with you in the

ultimate analysis, when this document will come up for ratification. Let me say to you, my friends, I am not a quitter, and I do not think there is anyone that has got the nerve to call me a quitter. I don't think there is anything in my conduct that justifies the claim that I am a quitter. I say to you, my friends, as much as I regret it, this demnable legislation that you are attempting to thrust down the throats of the great City of Chicago, will be resented, and one of the means of resentment will be that I refuse to proceed with people who will not give us fair play and I leave you and bid you good-bye.

Mr. MORRIS (Cook). It is a situation that is amusing to me, to be present and see how many gentlemen will squirm and turn when they have administered to them the things that I am accustomed to. I am just going to add this word or two, for the purpose of suggesting that notwithstanding the fact it will be absolutely of no influence, it gives me so much satisfaction that I cannot resist the temptation of participating for a moment in this discussion. For many years I have been crying out against disfranchisement, sometimes in vain, crying from Cook county to Washington, and I find that the people of the State of Illinois are very apt students, they go over into other states and learn how to do it, learn how not to do it. They have learned the art very quickly of disfranchisement, they have learned how to introduce and undertake to defend a proposition that will enable the minority to control. Now that is what county representation really means, and ultimately will lead to. Notwithstanding the fact that we have adopted a provision which provides that all of the styles of enactment should be styled "Be it enacted by the people of the State of Illinois represented in the General Assembly," we are not to have that remain if we adopt county representation, but ought to change to read "Be it enacted by a minority of the people misrepresented," even in the State of Illinois, for under this provision you have a number of representatives in the lower house, the house that is supposed to reflect directly the views and notions of the people of the State, and you take sixteen of these and put them down the State and you give five to Cook county. You ought to apply this by taking off a part of the taxes, that we are going to be obliged to pay to defray the salary of these gentlemen because you are putting on this additional burden notwithstanding the fact that you added six more to down State in the senate.

I understand very readily the peculiar vein of humor that ran through some of the lines of Joel Chandler Harris, when he put in the mouth of Uncle Remus the story of the rabbit climbing the tree, when he said that Mr. Rabbit walked down the long tree and saw a dog coming and he got so frightened that he ran right up the tree. The little boy said "Why, Uncle Remus, I thought you said that a rabbit could not climb trees," and he said, "Under the circumstances, son, that rabbit was obliged to climb that tree," and so you say to us in the circumstances we are obliged to do certain things and I readily agree with you, that if you have the minority control, you are driven to the doing of this thing. But, I don't understand that you are driven to the doing of the thing that you seek to do by county representation. You would have the check by the provision which you have made in relation to the senate.

Now, I don't know that I am any more interested in this than any other citizen in the State of Illinois, notwithstanding the fact that I came from Cook county, I may be mistaken about this, and the big City of Chicago. My pride is that I am a citizen of the State of Illinois and I do my level best to have presented to the people of the State of Illinois a Constitution that will be acceptable and that will have running all through it a spirit of fairness and a spirit of half way reasoning. We don't expect men to cease to be men simply because we get into a Constitutional Convention. We don't expect them to lay down the advantage which they have, but is it necessary to stifle a large number of people because they happen to be so fortunate or unfortunate as to live in a place that is a big city? You can protect it if you feel that you ought to protect, and if you feel that there is an impending danger of some kind to protect your people—and I want to say right here in passing, the day will be that you gentlemen will appreci-

ate at another time when the matter comes up the fears of individuals about things, since you fear so much this great danger, I will make that plain when the time comes along. I only make the suggestion now, but I do hope that you appreciate these fears that are engendered in your mind by reason of large population, but if that is necessary why not content yourself with a limitation simply in the upper house.

Now, you say county, and I listened with some degree of expectation because I realize when you are one-sided about a matter your mind is not just open to grasp the situation as other people view it, so I wanted to see the real reason for county representation, surely not because it is divided into county lines and you go down to the county seat every time you have litigation and meet somebody from other parts. One learned gentleman did suggest that it might enable a minority or smaller portion of the people to have representation. Why, it does not follow at all. You and I know as practical individuals, if you give a county representation, that the representative from that county will come from the large city every time because the population is there. How does that answer the purpose for which he pleaded so eloquently, the right of the small minority to have a voice in the legislature? The object is not accomplished in the slightest degree because you bring about exactly the same results. Theoretically we say it is a government by majority, with the rights of the minority protected against the outrage or unjust dealings of those majorities, and I think that is the way it ought to be. At the same time you have got to permit a majority of the people wherever they live to be fairly represented according to the population in at least one of the houses that will compose the two assemblies of the State, otherwise you breed dissatisfaction and discontent. Now, I would not care whether I came from Cook county or any other part of the State. I would not vote to make a man less a citizen because he lived in Cairo than I would to make him less a citizen because he lived in some other part of the State and that is all that this proposal provides for. It gives representation to counties that bear but little of the burden, that would not if fairly divided, be entitled in any senatorial district to anything more than a voice in the selection of their representatives. You at least make it possible for every man to have a voice, but when you pass this proposition you take away from the large majority of the people living in a certain section, even the possible right of having a voice in such election, but you say we increased for every fifty thousand, yes, you do, but you give eight or ten thousand the same force and effect that you give fifty thousand. There is not any reasoning in that, and there is not any fairness in it one way or the other. It is simply another way of undertaking to disfranchise a majority of the people, and ultimately, as the population increases, ultimately to have what we have in some of the states of this Union, gentlemen, a control by minority. Fundamentally I am opposed to it. I hope I shall always be opposed to a thing of that sort, whether it passes in this Convention or not, it does not seem to me to be such a proposal as ought to commend itself to the consideration and judgment of a majority of the people of this or any other state.

Mr. DAVIS (Cook). It did not require an astute observer to reach the conclusion yesterday as you gentlemen from down State filed into this chamber from your caucus that you were determined to put through the policy agreed upon in the caucus. Unlike some of my colleagues from Cook county I am not at all certain that that determination cannot be changed, and that you will refuse to listen to us, citizens of Illinois, who are here laboring with you, representing our constituency, that there ought to be some fairness shown our constituency. May I remind you at this time, since I propose to be practical, that from the very beginning of the discussion of this great question, the delegates of Cook county have been meeting with you delegates from the other counties and have listened to your appeal, that you have come to this Convention with a mandate from the people down State to present a Constitution under the operation of which it will be impossible during the life of that Constitution for Cook county to control the legislation in the General Assembly. I do not believe that any one from

Cook county who stands flat-footedly on the proposition that Cook county is entitled to its full share of representation in both houses need apologize for that position. But, gentlemen, as you all know, government after all is based on compromises, which reasonable men have to make from time to time, and so there were a good many from Cook county, and I have been among them, who have said to you in all the conferences that we had, that as far as we may justify our position we will work along with you on drafting an article on the legislative department which will limit the representation of Cook county in one of the houses of the General Assembly. That position was reiterated when night before last the delegates of Cook county met on one side of the capitol building and the delegates from the balance of the State on the other side, and at midnight the conference committee of the delegates from Cook county sent the final message to your committee saying that we believed that there was no occasion for creating a line of demarcation, or creating in the State of Illinois a situation where brother, against brother indeed, shall fight out a battle on fundamental principles of American government, for which our forefathers had fought, and for which we, the sons of Illinois had hoped the day would never come that another battle would be fought, and with tears in our eyes we pleaded with the delegates representing down State to try and meet us fairly on the proposition. We said that we would give up, and giving up it is, certain rights of citizenship of men and women residing in Cook county in order that we may continue to live in peace as citizens of this great nation and of this great State. To continue to live in peace we were willing to agree to a limitation in one house. Our proposal was refused. Why? Let us see. This is the place and this is the hour to emphasize the great evil which has crept into our body politic, through the activities and selfishness of men and organization of men, who sacrifice all for the aims and purposes of such organizations. I would be the last to impugn ulterior motives to the Anti-Saloon League of Illinois and Chicago backed, as it is, by splendid men, who are against the saloon and for the enforcement of prohibition laws. This league believes that its purpose will be served if Cook county is limited, but you men of good sense and judgment are expected to exercise your own judgment. It is not as good as the judgment of Mr. Davis, the league's representative. Let us be personal, why must you follow him? Why must we subordinate the great problems of government, to the purposes of the Anti-Saloon League, to an organization that has only one end to accomplish, and in its narrow sphere of activity is overlooking other problems of government and is willing to do violence to them. The members of the league are church people. Let the strength of the Lord be with them. Let them go on with their work. But is it fair to follow the judgment and dictates of this organization, no matter how high its motives are, when such cause overshadows all of the things which may concern the lives and the happiness of the people who reside within the State. I challenge contradiction that the idea of this county representation has originated in the minds of any other set of men except those who represent the Anti-Saloon League of Illinois and Chicago.

I have participated in all of the conferences of the down State delegates and the Cook county delegates in the preliminary stages of the organization of this Convention. Even then we heard suggestion looking to the limitation of representation of Cook county, and it was put up to us flat-footedly that no man from Cook county could preside over the deliberations of this Convention, because the men from down State came here determined that that particular element should not favor Cook county. Not a word was said about limitation in both houses, and I again challenge contradiction that not a word was said in any of those conferences, that the limitation must be based on county representation. The first time I have ever seen a word about limitations in both houses was in the literature of the Anti-Saloon League of Illinois.

Let us be more outspoken than we have been in the past in discussing this question. Let us be plain. No one wants to hurt any one else's feelings, I shall be the last one to do it. Are we as brave in public as we are in the

privacy of our homes? When we return home and discuss our political existence and certain phases of government, we also discuss the attitude of certain groups of men who are willing to sacrifice much and to do harm for the sake of securing favorable action on matters in which they are interested. Some of you men object to the activities of organized labor, and your voices have been heard, not publicly, because you don't dare to risk your political future, but in your home and in your club and in your small gatherings, and you have said that it was unfair to the great citizenship of this State or of this great Nation, to permit union labor to hold a whip hand over legislatures. And then organized labor has been heard to complain, properly, that it is unfair to let organized capital hold the whip hand over legislative bodies, and to reach its aims and purposes to the possible detriment of others. And so on the same basis complaint is heard about the organized farmer of this State. It was in newspapers only that we heard the voice of opposition to the Anti-Saloon League which is keeping our records and stands ready to cloud our political aspirations in case we disobey orders. I ask you men of Illinois, no matter what your views are on this question, isn't this the place where we should once for all deal a death blow to the practice which allows classes to assert themselves to the detriment of the whole people. The results means that we allow our own selfish ambitions to overcome the dictates of our conscience. We are not honest when we publicly refrain from expressing our opinion because this, that or the other organization through paid representatives is keeping track of us and is threatening us with political extermination if we do not follow the orders which emanate from such organizations. My dissatisfaction is the same, no matter who is trying to force me into a false position, whether it is organized capital, organized labor, organized farmers, organized churches, organized saloons, or organized anti-saloons. I repeat, without trying to hurt anyone's feelings, that the attitude of the Anti-Saloon League has been responsible for this idea of county representation, and Mr. Davis, its agent, was over on the other side of the house until after midnight, seeing to it that the dictates of his organization found expression in the report which is presented on the floor of this chamber. That you may understand me fully, let me say that when I sat in this chamber as a member of the General Assembly, whenever the question in which Mr. Davis is interested was being debated and voted on, I lined up with the forces, which are now represented by his organization. That is my record. Nevertheless, if perchance I should have any political aspirations that organization, in no uncertain terms, will let me know that it and those who are its friends are against me, but such appreciation must not change my cause of action. Of you men of Illinois who are sitting here to pass on the basic instrument of our State I ask but one thing, that your judgment be fair and independent. And in that spirit of fairness and independence, that you be outspoken as to the reason why you should so strangle,—and I am speaking in the words of some of our friends from the down State—strangle the population of the County of Cook. Now if we can be outspoken, what are the reasons for limiting in one or both houses, the representation of the County of Cook? You say it is not the influence of the Anti-Saloon League. I hope it is not. Some of you might not be willing to answer my challenge. Let me answer for you: you are afraid of a situation where the continued growth of Cook county, with its representation on the basis of the present constitutional provision, would give Cook county control of the House and the Senate, and that legislation enacted by that sort of a legislature would not be acceptable to the balance of the State for two reasons; first, because that sort of legislation would not be the result of sufficient personal contact with the balance of the population of the State, such contact being necessary to understand the views and the needs of that part of the State. I grant that from a governmental standpoint. We from Cook county ought to listen to it, so that even the great principle of equal representation might be modified to meet these views. I ask you, gentlemen from down State, have you not served that purpose, have you not accomplished everything that you want to accomplish by limiting the representation of Cook county in one branch?

If Cook county has control in one chamber, the balance of the State in the other chamber will see to it that Cook county does not have its own way.

Now there may be another reason in your mind which not one of you dares to express on the floor of this assembly. Many of you told me privately that you do not want to create a situation where the industrial centers of Illinois would control the legislature or be fully represented. Why don't you say so? You do not dare for political reasons. If it is unfair from the standpoint of the proper functioning of government to allow industrial centers to dominate and control the legislature of the State, is it fair to allow other interests like the farming to dominate the legislative halls of this State? You men from down State may well listen to the advice of those of us who have spent all or nearly all of our lives in the industrial centers. Where have you gotten the notion that you must live outside of Cook county to have a right understanding or to give the right interpretation to the words of the bill of rights which we have adopted here, that government is instituted to perpetuate the inherent rights of human beings, which are life, liberty and the pursuit of happiness, to protect these human rights as well as property rights. Do you think that representatives of industrial centers do not understand human rights? Do you think that your property rights are jeopardized? I have little property. Other men from Cook county have much more. We come from the industrial centers of Chicago. We are not afraid to trust our property to representatives of industrial centers. We might rightly fear them if we deprive them of equal representation in our great democracy. One of the delegates came over to my desk yesterday afternoon, after my colleague, Mr. Hull, asked the gentleman from Will if, in limiting Cook county to one-third in the senate, he had in mind that the industrial centers of population should be curbed. This down State delegate expressed regret that the question was put by Senator Hull. Why stir up strife between those who live in industrial centers and those who live in the balance of the State? Why, my friends, be alarmed about the question of Senator Hull, for any comments which I might make are unnecessary. Your actions speak loudest. These men think, they read and they know. If you proceed with this fallacious theory of yours, of incorporating into the Constitution your report of the legislative department, the men in the industrial centers will know what the effect of it is without any comments from me or questions of Senator Hull. Talk about stirring up strife, talk about the protection of property, that is one of the ways of stirring these industrial centers to an understanding that they are treated unfairly. These men are not represented by anyone coming from their group. We have the power, but we live in a democracy, we are a part of it, and we ought to take it on ourselves to see to it that their rights and their citizenship are protected. It is one of the ways. It is our duty in this manner to uphold the dignity of the institutions of our government. It is in that way indeed that we may have peace, it is in that way only, that we may enjoy life, liberty and the pursuit of happiness. Now, my friends, I feel that a grave error is being made and I appeal to you as one man appeals to another (I refuse to use the words "in fairness", because these two words have been used frequently without putting their meaning into execution) but I ask you again, man to man. In the last forty-eight hours here, one man spoke on another article of the Constitution, when the question of the composition of the Supreme Court was under consideration, and he clothed the judiciary district with a great amount of sanctity, and when it was necessary in the pursuit of the policy of not giving Cook county proper representation in that court, said it is not the county that counts but the judicial district. The next day when the debate was on the representation of Cook county in the legislature of Illinois, we heard another man "in fairness" say it is the county that counts. He said, "are you going to strangle the voters of my little county?" and his answer was "of course not", but when it comes to the strangulation of the voters of Cook county, his answer is, of course, "yes." So I am just asking you as men with a proper understanding of the situation, with a proper conception of the magnitude of the problem, see if you cannot get together among yourselves once more, recall your own action, call as many of us

into conference as you will and we will try and meet you, we will try to compromise some of these differences. I ask you not to leave the Convention with the idea that there has not been any strife, there has not been any misunderstanding, there has not been any quarrel between Cook county and the rest of the counties. There is a real quarrel which we were unable to settle. I sat here in the legislature, and other men from Chicago and other parts of the State have done likewise, and there has never been a difference of opinion that could not be adjusted, but you are going to bring about a different condition, you are going to promote a difference between Chicago and the rest of the State, and you are going to make the people of one section disrupt the people of another section. Besides, please do not create a disturbance, where a great number of men are made to ask themselves the question: Is their citizenship worth as much as they thought it was? Let me conclude by asking you not to go on with your fallacious arguments and debates which do not cover the question. Do not make the separation any wider than it has been. My appeal to you is to get together, and let us be as fair today as we have been in all the days of the existence of this State since the date of its admission into the union.

Mr. HAMILL (Cook). I move, Mr. Chairman, we now recess until two o'clock.

Recess until two o'clock Thursday.

2:00 O'CLOCK P. M.

Committee of the Whole met pursuant to recess.

CHAIRMAN SHANAHAN. The committee will come to order. When the committee recessed, we had under consideration the substitute for section 7 of proposal 366. The gentleman from Macoupin, Mr. Rinaker.

Mr. RINAKER (Macoupin). Mr. Chairman, it is a pleasure to listen to the distinguished delegate from Cook county who addressed the Convention just before the recess, on any and all occasions. I regarded his oration that was delivered here on a recent celebration as a model, as a splendid oration on that subject, and while I always enjoy listening to him, I did regret that he made as the most impassioned appeal in his remarks before the recess a denunciation of an institution which has been named by two or three in the debate, and which it seemed to me need not have been introduced into the discussion. Personally, the first inspiration that I had in connection with this Convention on the subject of county representation came through the distinguished gentleman from Bond, and if he is that institution, or if he was then its agent, or some other power, it moves in a mysterious way its wonders to perform, for I never suspected that the gentleman from Bond was controlled or driven by any such or any other institution.

Personally, the plan appealed to me. Let me say further in that connection that from my earliest recollections of that institution, I have never even by my bitterest enemy been charged with being in any way affiliated or connected with it, and I may say that in the discussion of this subject, no one to my knowledge connected with it spoke on that subject to me until one day since the recess, when a gentleman whom I had not before met, introduced himself to me and stated that he was a member of that institution. So that for one the criticism of the gentleman from Cook does not apply to me.

I have been in the discharge of my duties connected with the discussion and the negotiations in regard to this pending proposal from the start, and I know that General Davis will say that I have endeavored, and I believe he will say that I have endeavored honestly, to reach an agreement as a member of a sub-committee, with the sub-committee of which he was a member. The position of the down State members has not been that of arbitrarily putting through any set program. The county feature was proposed by the sub-committee on the second of June, and for it there was substituted the proposal which has just been abandoned, or reenacted, rather, section 6, and section 7 is proposed to be displaced again by the county

feature. In adopting the plan that was then presented as a substitute, and which was adopted by this Convention, there was conciliation, concession and waiving of personal views among the down State members, particularly, and in that I say we showed that there was no disposition to put through any set, fixed plan of limitation of the representation of Chicago, that there was from the beginning of the meeting of the members of the Convention prior to its organization, and as stated by Judge Cutting in his former remarks in June when this matter was presented, when he came down here he understood that there would be some restriction of Chicago's representation. There always has been a feeling, and I can not imagine why it was unknown in Chicago prior to the election, that there should be a substantial and effective limitation upon Chicago's representation in future General Assemblies. The particular plan, as I say, was not materially set, was not imposed upon the members in any way, but was arrived at first by the agreement of the majority of the committee, and then, as I repeat, by conciliation and concession in the proposition that was adopted.

Mr. HULL (Cook). Between the members down State, or who?

Mr. RINAKER (Macoupin). Between the members who were from down State, and which was not done until every effort that could be made was made by the members of the down State sub-committee to procure the cooperation of the Chicago members upon some basis, and as I was just about to say, when this proposition was carried on the 17th of June last, it was a pleasure to me, and I commented on it at the time, that the distinguished member of the sub-committee from Chicago, Mr. Hamill, stated himself to us on the floor that with the elimination of three lines of the proposal that was then adopted, he would go along and support the Constitution, including that representation. It was a brave thing for him to say at that time, and he was followed by the gentleman from Cook, Mr. Woodward, and by some other members whose name does not now occur to me. With that exception, the number of members from Chicago who were willing to get together upon any basis that had then been approved by the down State members was wholly unsuccessful. The sub-committees met and discussed and tried to get together. There was then an impassable difference. The majority of the Cook county men were reported as being opposed to any limitation—I won't undertake to say as to figures either—but many of them were against any limitation whatever.

Now then, when the matter comes up at this time, it is not fair to the down State people to say that we come here under a whip and lash and spur to put through any particular proposition. I am not speaking now for anybody but myself, but I will say this, that it is my personal opinion that if the majority of the members from Cook county had been willing to take the position that was so bravely and so frankly taken by Mr. Hamill last summer, that proposition could have been again written into this Constitution. I may be mistaken, but things have happened since we adjourned last June that have emphasized and driven home upon the minds of the people down State the imperative necessity of insisting upon a limitation that shall be not apparent, but that shall be substantial, that shall be effective.

Now, it is said that it is un-American, that it is unfair, that it is not in accordance with representative government and with the theory of taxation and a good many other theories. That may be. My first answer to that is this, that it is a condition that confronts the people of this State and that confronts this Convention and not a theory. My second answer to that would be that when the distinguished Senator who sits across the aisle from me and who did me the honor to refer to a proposal that I offered earlier in the session, in which I thought it wise and still think it wise, to express in the Constitution our recognition of the fact mentioned in that proposal, that when he was in charge of the measure for the home rule of Chicago, that he himself objected to and refused to take unlimited and unrestricted home rule in Chicago, but insisted that he and another gentleman from Chicago—I don't know which of them used the particular language, but the substance was the same—that it would not be safe to take unrestricted home

rule to Chicago. When that was done, and when the home rule proposal as it was advocated and brought in and as it was finally shaped up contained continual references to the power and the right—and in the discussion it was insisted that it was proper and that there should be a supervisory or restrictive—those are my words—restriction upon the home rule asked for Chicago—I say that the men from Chicago advocating home rule recognized the same principle, the same condition that impels the people of down State and should impel the same people of Chicago, who favor this kind of home rule to stand with us in preserving, so long as we can preserve, the kind of a ratio which the advocates of home rule in Chicago reserved and insisted upon the right to refer their measures of home rule for their own protection.

I am not going to discuss as a matter of history or as a matter of governmental theory the propriety of such restrictions as this. I simply say that from what little reading I have done, from what little observation I have made and from what I hear from the representatives from Cook county and Chicago, that the safe plan, the wise plan, is to preserve a form of legislative body in this State that shall be free from the influences that seem to be dangerous to the rights of the citizens of Chicago in their local government. And for one, I cannot see the consistency in the distinguished gentlemen—by the way, speaking of consistency, we all talk about it, we all say we want to be consistent, and yet I am willing to say that I cannot expect always to be consistent, and I do not expect others to be any more consistent—but I cannot see how it can be argued in one breath that any restriction upon representation in the legislative body is a violation of all the rights of man and of government, and in the next breath to say that we come down here expecting and understanding that there would be restrictions in one house but not in two. If the principle is wrong, then the position of the distinguished chairman now presiding, when this matter was before the committee before, is the only sound one, and that is the unalterable opposition to any restriction of representation. So I say that when you concede, as many have done, that for any purposes, whether of compromise or concession of sound principle, or as a matter of expediency and safety, that there should be or that there may be, or that a Constitution containing that kind of a restriction will be supported by them as a compromise or for any means, then I say that they have burned the bridges behind them on the question of principle, and the only question then remaining is, what is a reasonably fair and what is above all things, an effective limitation and restriction on the centered power of an enormous population in a small territory.

Now, we believe, and we join with those who recognize, the right or the expediency of limitation in one house, that that restriction should be effective, and when it is argued that it should not extend to more than one house, it raises a suspicion in the minds of one inexperienced whether or not restriction in a single house can be effective, and if there is a doubt on that proposition, that is a sufficiently strong argument to turn the scale in favor of the restriction upon both houses.

It is not pretended that this proposal is without defects. It is not pretended that it is in every particular perfect. It is not pretended that there might not be something better, but what is there presented that is better? We have had proposition after proposition that have been considered. Now, as a further evidence of the fact that the down State members are not unfair in this matter, every advocate of the defeat of this proposal argues that the people must rule. As one member in private conversation has stated, that whenever there is a majority in the County of Cook or the City of Chicago, then Constitution or no Constitution that majority must rule. If the majority must rule, then what fairer proposal can be made than the one that is submitted to you today by section 7 and the alternative proposal that is to follow? And I want to say that that suggestion was a brilliant and a fortunate one. It was made by Delegate Dietz, and he is entitled to the credit of the suggestion that Chicago be given an opportunity to determine what is the will of the majority of the people of the State of Illinois, and I do not expect, in view of what has been said, to hear any member from

Cook county upon this floor say that he is opposed to that principle, in view of what has been said.

But it is said, let them be submitted upon an equality. Now, gentlemen, I have gone on record on the question of the referendum, and I stand by that record. I do not believe in it as a constitutional principle. In the matter of the adoption of a Constitution, it is the only method that can be followed. Therefore, it is defensible, and it is to be followed here. Simply to submit two proposals without recommendation from this body is to fall into all the evils of the referendum. You pass the buck up to the voters instead of acting upon your own responsibility as delegates from the people. Therefore, it is to me preposterous to say that the two proposals shall be submitted as separate proposals and the body of the Constitution left blank on that proposal. We are responsible for the writing of a Constitution. We may write one that the people refute. If so, our labor has been in vain, but the responsibility is upon us upon every proposal to express our sound judgment, or what we think is our sound judgment, and to submit that to the people with the indorsement of our approval as a body, a complete instrument, not a patchwork instrument. Therefore, we should write into this Constitution the proposal that in the opinion of the majority of the Convention expresses the judgment of the Convention. Then if that principle is unsound, it will be easy to demonstrate that unsoundness if it is so clearly unsound. It is an added burden, I concede, to those who are opposed to the proposal that is in the Constitution, but if the majority of the Convention favor it, then they are entitled to the benefit of that advantage, whatever it may be, and you then go to the people submitting to them a proposal in a manner not limited by this resolution that is to follow, but subject to the control of the Convention as to its fairness, and which I think should become effective at any time that it receives a majority of the votes cast at the election, and with that right, with that opportunity, it seems to me, the criticism is disarmed. The proposal that is submitted is the identical proposal submitted by the minority at the time the matter first came back from the Committee on Legislative Department. It is the proposal known as the Shanahan proposal. It is the Chicago idea as officially promulgated by the sub-committee of Chicago members.

CHAIRMAN SHANAHAN. May I correct the gentleman by saying that that is not the Shanahan proposal in no respect whatever? The Shanahan proposal was for unlimited representation in the house and senate both.

Mr. RINAKER (Macoupin). That is right, sir.

CHAIRMAN SHANAHAN. This is on the house only and not for the senate.

Mr. RINAKER (Macoupin). Oh, yes, sir. Of course, I did not mean to say that the section 6 that has already been adopted was a part of it, but the section that is proposed to be submitted separately is section 7 of what was known as the Shanahan proposal. Section 6 of your proposal, as I remember it, was for an unrestricted representation in the senate. I was speaking only of the representation in the house in what I said, because the chairman has been consistent in that position, and I have no desire to in any way misrepresent him.

Now then, gentlemen, as to the manner of the submission. The matter of the restriction of Chicago's representation is a very important thing, but it lacks much of being all that is to be included in the proposed new Constitution. Many things should go in it. Many things are proposed to go in it, and it should not be put before the people—this is really an argument on this line more to the Committee on Schedule, but I refer to it at this time because it seems to me not inappropriate to say that it should be so submitted that the minds of the people shall be directed in the affirmative and not in the negative. It was suggested by some of the Chicago people that their proposal be put in. You know the influences that you are going to have in Chicago anyhow against any constitution that may be written. No down State man has locked his desk and gone home up to date. You know what is going to happen in Chicago? The good things that come out of this Constitution must be adopted by affirmative votes for the Constitu-

tion, and you don't want to give added strength to the opposition that you know exists in Chicago.

Now, gentlemen, I have talked longer than I had expected, and I insist that at this late day, talking about getting together when so much effort has been made to get together and when during the conferences night before last the sub-committee from the down State men were told officially that any proposal that included limitation on representation in both houses was not to be considered for a moment, that unless something concrete and specific comes, with the substantial united support of the representatives from Chicago, that it is too late now to talk about getting together, much as I regret it. It seems to me that the burden is upon us, that the duty must be performed, that the thoughts of the Convention must be expressed and the will of the majority must be known.

Mr. HULL (Cook). Mr. Chairman, may I ask the gentleman a question? The gentleman stated that some things had happened since last July which had changed the situation. Is he willing to state what they are?

Mr. RINAKER (Macoupin). Emphasized the situation.

Mr. HULL (Cook). That had emphasized the situation. Will the gentleman state what he has in mind?

Mr. RINAKER (Macoupin). No. This has been discussed without reference to partisanship, and I do not propose to introduce it at this time. You know what has happened in Chicago.

Mr. HULL (Cook). The answer is, gentlemen, that the majority has ruled, and this not being his majority, he is opposed to majority rule. He speaks of majority rule now because he is the majority here. He refers to majority rule in Chicago, but because it is not his majority, therefore it shall not rule. That is the logic of his argument.

Mr. RINAKER (Macoupin). But I submitted to that majority rule.

Mr. CORCORAN (Cook). Will the gentleman yield to a question? The decision in the Fox case in the Supreme Court, is that what the matter was?

Mr. RINAKER (Macoupin). Oh, no.

Mr. MAYER (Cook). Mr. Chairman and gentlemen of this committee: I occupy possibly a unique position in this Convention. It cannot be said of me that I am representing the industrial portion of Chicago and that, therefore, there is a conflict between the farming or down State interests and those for which I speak. I was sent here by the first district of Chicago in which there are few, if any, industrial enterprises. That district is the richest district in the State of Illinois, and I have frequently heard it said is the richest political district in the United States. Therefore, I am justified in asserting that if property and wealth creates conservatism, that I represent the most conservative district represented in this Convention.

I am not going to appeal or try to appeal to passion or to prejudices of any kind. Such appeals, in my opinion, would be fruitless. Nor am I going to allude to the unfortunate fact that some particular organization is endeavoring to accomplish some individual purposes in the preparation of the new Constitution. I think that the members of this Convention, from down State as well as from Cook county, represent about the highest class of citizenry that has ever assembled in this State since the 1870 Constitution was adopted. It is going to be my endeavor to appeal to the reasoning of the gentlemen who have put in the so-called county proposal. If my remarks fall short of convincing those gentlemen, I shall not attribute my failure to any disposition on the part of the down State gentlemen to honestly try to listen and to be convinced. I realize that all of us have pre-formed opinions, sometimes pre-formed prejudices and conclusions. I am, in the language of John Paul Jones in that memorable naval conflict, "not yet done fighting," but my fighting will be in a palimentary way and by mainly methods, and if they fail, I shall have done my duty.

I do not quite concur in the reasoning of the last speaker, Judge Rinaker, whose contention is that because a majority so wills it, that therefore it shall go into the Constitution. What I am after is to endeavor to shake

the majority conclusion. I recognize neither a minority nor a majority conclusion until the debates have been concluded and the book has been closed. Then we shall know where the majority stands and where the minority exists. It is, therefore, not a question of submitting to the people this Constitution which we are now in the act of framing and saying a majority favors the limitation of the representation of Cook county in the senate and in the house. My effort will be directed, Judge Rinaker, in an endeavor, if I can, to demonstrate that the premise upon which your temporary conclusions rest is not correct.

There is a fundamental underlying principle of all government, as old as the Constitution of this country, that the majority shall rule, and that there shall be in the popular houses, national and state, representation according to population. No political instrument ever framed by the mind of man has equalled the Constitution of 1787, and no body of men, socially, politically, morally, commercially and intellectually has ever gathered together to create an instrument of government equal to that small body that sat in Philadelphia in the Convention which began in May of that year. Our own drafters of the Illinois Constitution of 1818, of 1848, of the Constitution of 1862 which was proposed but not enacted, and of the Constitution of 1870, all of those conventions which framed those great instruments of state, all of them recognized the underlying fundamental requisite that at least in the popular house of legislation there should always be representation measured by population.

Now, I am not one of those who always believe that what was good yesterday is necessarily good today or tomorrow, but I inquire, what has there happened in the State of Illinois which requires that we should leave the landmarks which have grown hoary with age, created by wisdom, and shown by experience to be the best method of republican government that can be created? Gentlemen, do not let us close our minds to the fact that we are living in an age where millions upon millions of the teeming masses, feel that they are under the lash of political and economical injustice. They are with us, they are of us, they have the equal franchise in this and I think every other state in the union—I recall none where there is a property requirement—millions upon millions of the teeming masses who unconsciously are cooperating in trying to make life worth living, and who in their efforts to make their living the best that they possibly can, are perhaps unconsciously serving the interests of mankind, they are the ones who are not here to speak for themselves, but they are a part of the State, they are a part of our government, and they have been brought here and welcomed with open hands, and they have been the creators, to a very large extent, of the wealth of this nation. What can we, the representatives from Cook county, when we come to report all our actions and doings, say to these millions? What is there to explain that 33 men and women living immediately beyond the line of Cook county, just one step across, have a franchise that is equal to a hundred men and women who live one foot the other side of the line? Or what can we say to the hundred men and women in Cook county that their franchise rights are equalled by the votes of 35 men and women who live just across the line? Neither the Divinity nor mankind can create or has created such a remarkable inequality. There will be no explanation, there can be no answer to it. We have those forces to deal with; they are a part of our existence; they are a part of our economical, our political, our social existence, and I am glad that they are.

It is from that standpoint, Judge Rinaker, that I address myself to you and to the other gentlemen from down State. I want to appeal to you to help us meet a problem which exists. There are altogether too many forces at work in the community, in the State and in the nation today to unnecessarily aggravate that situation. Bolshevism, Anarchy, Communism, Redism, Socialism and all the other isms are working their way into the intellects of the mass in this country because those masses believe—I am not saying correctly, but they believe it, and belief is just as good as accuracy—that they are not getting their deserts politically and commercially and financially. Now, why create a government which will put another cap on these

climacteric conditions that are giving us so much trouble, and threaten to increase that trouble?

I believe that some of you gentlemen from down State if you freely spoke your minds would say that one of your controlling objections is not so much against equal representation being given to Cook county, but because the caliber—and I shall be outspoken—because the caliber of some of the men that are sent to the legislature from Cook county possibly does not measure up to your idea of what that caliber should be, or possibly it does not meet upon a basis of intellectual equality with the majority of the delegates that sit in the House and Senate of Illinois. Let me just for a temporary moment concede that there is that intellectual inequality or social inequality. Gentlemen, they are part of what goes to make up the State and the government. It is too late to discuss the franchise equality or the right of every man and woman to cast a vote upon an equal basis with every other man and woman, nor is it just quite fair, nor is it the exercise of political wisdom, for us to say that some of those delegates that sit in this hall when the legislature is in session, are not such as we would send. Gentlemen, they represent their constituents. Their constituents have rights; their constituents have needs; their constituents are entitled to their representation just the same as the constituents of the first district who sent me here have a right to the selection of their representative. This whole country was created for the purpose of constituting a melting pot where those from all climes would be welcome, and in the course of time create one vast, happy, homogeneous entity. Now, why should we create obstacles? Why should we create insurmountable burdens, and why should this convention supply the agitators, the men who are engaged in stirring up riot and trouble, why furnish them with another weapon to go among the multitudes of the city and say, "The great Convention of Illinois has reported a Constitution in which they were afraid to recognize your equality, and have put you upon a basis of where three of your votes are equal to one vote from all other parts of the State of Illinois? Gentlemen, it is upon that basis that I wish to appeal to your minds. Governments are not made in a day. Conditions are not created in an hour, but the conditions which are forming will constitute, I fear, in this State another one of those instrumentalities which lead to the perpetuation—yea, the creation of the very difficulties that we are trying to obliterate and annihilate.

I am not prepared to say to you, gentlemen, that Cook county must have a majority vote in the Senate, a majority vote in the House, but I am prepared to say to you that when you increase out of a 51 membership in the Senate the number of 57 and give those six additional votes to down State, and do it upon the theory which you confess is your guiding motive, that you will not give Cook county any increase in its representation in the Senate, which is now 19, but you will increase the whole to 57 so as to make Cook county's representation one-third, and thus give the balance of the State two-thirds, there can be no explanation, as I look at it, to the teeming masses of the City of Chicago whose presence has made this State great, gentlemen. The men who toil in our factories and in our foundries, in our shops, the working men and women of Chicago, are just as law abiding as the employing classes. The per cent of the employed who violate the law is no greater than the per cent of those who employ them.

Now, there can be, as I look at it, no logical, no convincing, no satisfactory argument that the State of Illinois should have outside of Cook county a representation in the Senate of twice the representation of Cook county, which has a population nearly one-half of the State, and that the representation in the lower house should be on a per cent of 35 to Cook county and 65 to the balance of the State. Gentlemen, it does not taste right, it does not come up, in my opinion, to your claim, or it should not come up, in my opinion, to your claim and dispassionate intellectual consideration of this very important question. You can go to the constituency of Cook county—I can go to the constituency of that county, and my fellow members of this committee can go and say, "There are reasons that we regarded as good why Cook county should not have equal right of representa-

tion in the Senate," because the fear that perhaps a tumultuous multitude might for the unspoken reason that Judge Rinaker did not express, be carried off its feet. But suppose that should happen: The calm, cool reflective agitation and consideration of communities, big or small, have in the history of this country always landed right, no matter of whom composed, and if you fear a temporary tumult, a temporary earthquake, the majority control of one house must give you all the protection that you should ask for and that you can need.

I have been much interested, and my few questions to Chairman Barr indicated that interest, in knowing why this change should be made in Illinois, and the answer to one of the questions was that the great Empire State of New York furnished a precedent. Gentlemen, I have taken the pains to read word for word the article of the Constitution of New York to which Judge Cutting alluded in his clear and convincing way, and I say to Mr. Barr, and I challenge the interruption, for him to point out any such restrictions in the Constitution of New York. I will tell you what they are. In the Senate, the New York Constitution provides that one county shall not have half of the Senate, and that two counties, meaning Brooklyn, Kings county, and New York county, separated by a river, might have one-half of the representation in the Senate. In other words, Greater New York includes Kings County and New York county, Manhattan, and under the Constitution of New York, it is expressly provided that those two counties, which now constitute and are a part of Greater New York, may have one-half of the representation in the Senate, and I will read the sentence so that I will not go astray. In the article on the legislature, in the Constitution of New York, in arranging for the representation of the senate, it is article 3, section 2 provides that, "The senate shall consist of 50 members and the assembly shall consist of 150." The State of New York is then divided into 50 districts, and after the apportionment is made, the districts are re-apportioned according to population except that every county is given one delegate, excepting Hamilton county, and for every 50,000 more a second delegate, and when we come to the senate, it is expressly provided that two counties, adjacent counties though divided by a river, shall never have more than one-half of the senate. Now, if I am wrong, Mr. Barr, correct me.

Mr. BARR (Will). Did I tell you that that was the reason why?

Mr. MAYER (Cook). No, I said one of the reasons. This was cited as a precedent, and you used the expression, "the empire state." Now, I appeal to that same precedent, I appeal to the Constitution of the empire state which expressly allows Greater New York to have one-half of all the delegates in the senate.

Mr. BARR (Will). Let me ask you another question. Do you also appeal to the precedent of the empire state as a basis of representation in the lower house?

Mr. MAYER (Cook). I do not. I am not appealing to it at all. You introduced the empire state.

Mr. FIFER (McLean). That is a limitation, isn't it?

Mr. MAYER (Cook). A limitation, Governor; that is, that amount should never exceed one-half, but every ten years there is a re-apportionment and the population divided by 50; that quotient represents the number of voters for each district.

Mr. FIFER (McLean). Under that provision of the Constitution could Greater New York City ever get control of the Senate?

Mr. MAYER (Cook). No, sir, they get only one-half.

Mr. CUTTING (Cook). Will you allow me to interrupt?

Mr. MAYER (Cook). Certainly, Judge.

Mr. CUTTING (Cook). There are five counties in Greater New York, and while no two of them can have more than half, the other three can have, and therefore, Greater New York can get control of the senate.

Mr. LINDLY (Bond). They made five counties so as to evade it, didn't they?

Mr. CUTTING (Cook). No. They had four when they started, and they have just added the fifth one, Bronx. Kings, New York, Richmond, Queens and Bronx are all in Greater New York.

Mr. MAYER (Cook). I was referring, Judge, to the precedent of merely Kings and Manhattan, and I was coming to the demonstration that under the Constitution of New York, since Greater New York has been enlarged and has taken in the other counties, Greater New York, which however will then consist as it does now of five counties, (but it is contiguous, the counties are contiguous and the population is one, and there is one mayor, one police force, one municipal government), can have a majority.

Mr. DAVIS (Cook). Mr. Mayer, since you have invited interruption, will you be kind enough to add that under the present Constitution of the State of New York there is a specific provision calling for future Conventions at the expiration of twenty years allowing another opportunity for readjustment of things that might occur during the twenty years?

Mr. JARMAN (Schuyler). Mr. Chairman, may I ask the gentleman a question?

Mr. MAYER (Cook). I shall be very glad to answer all the questions that I can. I have invited it, because if I am wrong, I want to be put right. I am trying to appeal to your reasons, gentlemen.

Mr. JARMAN (Schuyler). Do I understand you to say that at the time of the adoption of the Constitution of 1894 in New York that Greater New York consisted of five counties?

Mr. MAYER (Cook). No, sir, it did not.

Mr. CUTTING (Cook). There wasn't any Greater New York then.

Mr. JARMAN (Schuyler). No, but that was formed afterwards for the purpose of avoiding this Constitutional provision.

Mr. CUTTING (Cook). But it could not have been formed without the consent of the people of New York.

Mr. RINAKER (Macoupin). May I ask the gentleman a question? Did you understand that that action in regard to the representation of New York in the legislature was intended as a limitation upon it?

Mr. MAYER (Cook). Undoubtedly.

Mr. RINAKER (Macoupin). And the purpose of the Convention at that time was to prevent New York obtaining control of the legislature?

Mr. MAYER (Cook). I think it was, Judge.

Mr. RINAKER (Macoupin). Then the attempt to secure a limitation of the great city of New York by restriction in a single house failed, did it?

Mr. MAYER (Cook). I cite the instance, Judge, to show that the empire state did not consider it necessary in tying the hands of this great population of New York to a limitation less than one-half of the senate.

Mr. RINAKER (Macoupin). Is it not equally possible that the members of that Constitutional Convention were not sufficiently foresighted to see that it would be possible for the votes of the City of New York afterwards to evade that restriction in this way, and that they therefore adopted an ineffective method of restricting when they applied it only to one house?

Mr. MAYER (Cook). Judge, it is an impossible thing for me to pass judgment upon foresight or the mental horoscope of the members of the New York convention, just as difficult as it will be for us to answer the question if in ten years we are confronted with it, "why didn't you foresee the effect that this has had upon the people of Cook county?"

Mr. MILLER (Cook). May I interrupt? Wasn't it your understanding that the objection of the gentleman was not that they lived in Chicago, but that they were centered in one place, and therefore constituted one community? And I would suppose that would be the same way whether they lived in Brooklyn, or whether they lived across the river.

Mr. MAYER (Cook). Mr. Miller, we have used Chicago and Cook county for brevity, but your position is entirely correct, that the entire argument—I modify that—that much of the argument that has proceeded here has been against the accumulation of a vast population in one contiguous territory, no matter where that territory was located, and I think an instance was given by one of the eloquent speakers, of a large city being

in the southern part of the State of Illinois, where one might counteract the other.

Mr. BARR (Will). Mr. Mayer, may I ask one more question? Do you think that the same necessity exists, if there does a necessity exists, for limiting a dense population where that population extends into five counties, as would exist where that same population was within the boundaries of one single county?

Mr. MAYER (Cook). I can answer that question if you will divide it. In the first place, Kings county and Manhattan, which goes up to the Bronx, constitute as I remember it, about nine-tenths of the population of Greater New York. I will not undertake to be very accurate. My impression is—I may be helped out by some of my associates—that it is about nine-tenths of the entire population, Brooklyn and New York. Am I right about that, Judge Cutting? This is a rough guess, I may be wrong about that. So that I think your question falls if that premise be correct.

Mr. BARR (Will). That is two counties instead of one?

Mr. MAYER (Cook). That is two counties, just across the river, across the East River, Brooklyn on one side and New York on the other, Brooklyn being in Kings county. My recollection is that Brooklyn has a population of something over a million, and that the City of New York has a population of I think five or six million.

Mr. BARR (Will). That includes altogether five counties.

Mr. MAYER (Cook). Five counties, but the other counties, the outlying counties, my best recollection, Mr. Barr, is that they have quite a negligible part of the population. I think it is nine-tenths in Kings and Manhattan.

But, now, let me go on a little. When the Constitution of the United States was adopted it provided as follows—I read from article one: "Representatives and direct taxes shall be apportioned among the several states which may be included within this union according to their respective numbers." And when the Constitution was amended by the 14th amendment, the same language was included. You remember, in the original Constitution they were not allowed to count slaves, and when the 14th amendment was adopted, precisely the same language was used, reading as follows:

"Representatives shall be apportioned among the several states according to their respective numbers counting the whole number of persons in each state, excluding Indians not taxed."

That instrument, gentlemen, was signed by George Washington who presided over the Convention, and the men who framed it were such as Alexander Hamilton, James Madison, men who were without a peer as statesmen in their day, and as to Alexander Hamilton, he has not had a peer since, in my opinion, and Hamilton was regarded, as you gentlemen know, as the aristocratic leader, the monarchical leader of the Convention, and yet he—and I am going to read you just two or three of the debates of the Federal Constitution and see if their reasoning does not apply now here in this place.

So that in the lower house it was regarded always that population should count equally in the election of members to the House of Representatives. Now, I took an opportunity while the debates were going on here this morning to send for Elliott's debates, in which are recorded the debates in the Federal Convention, and also the debates in the various state conventions that acted upon the Federal Constitution, and I am going to quote from just a few of those great men, and then I want you to tell us why that reasoning does not apply now, as it did then. I want to read a sentence from probably the greatest jurist of the convention, Mr. Wilson, who afterwards was appointed to the Supreme Court of the United States by President Washington, and in whose office—I mean Wilson's office—Mr. Bushrod Washington, who afterwards also became a justice of the Supreme Court, and who was a nephew of George Washington, studied law. I think the story is told—at least I have read it, I think I got it in Beveridge's life of John Marshall—that Washington paid for the education of Bushrod Wash-

ington by giving his due bill, his note of hand, which would indicate that at that time President Washington was hard pressed for money.

Mr. Wilson, afterwards justice of the United States Supreme Court, said in discussing representation in the lower house—this is the account:

"He would not repeat the remarks he had formerly made on the principles of representation. He would only say that an inequality in it has ever become a poison contaminating every branch of government. In Great Britain, where this poison has had a full operation, the security of private privilege is owing entirely to the purity of her tribunals of justice, the judges of which are neither appointed nor paid by parliament. The political liberty of that nation, owing to the inequality of representation, is at the mercy of its rulers. He means not to insinuate that there is any parallel between the situation of that country and ours at present, but it is a lesson that we ought not to disregard, that the smallest bodies in Great Britain are notoriously the most corrupt."

I have sometimes heard it said that some of the smallest counties—of course, not in Illinois—are the most corrupt.

"Every other source of influence must also be stronger in small than in large bodies of men. When Lord Chesterfield had told us that one of the Dutch provinces had been seduced into the arms of France, he need not have added that it was in Holland, but one of the smallest of them. There are those among ourselves which are known to all. Passing over others, we may only agree that the impost, so anxiously wished for by the public, was defeated not by any of the larger states in the union."

I have with me here similar extracts from Mr. Patterson, who was a member of the Constitutional Convention of 1787, from Mr. Sherman, who was also a member, from Mr. Gorham and four or five others. They all speak to the same point.

Now, gentlemen, one of the most difficult problems that confronts the American people today is the problem of Americanization. I happened to be a member of the national committee on that subject which was appointed during the war. I have attended some meetings; unfortunately, comparatively but a few. Americanization confronts the people of this country as probably no other problem does. Americanization means the making or trying to make of the foreign element in our midst real, true American citizens. The City of Chicago—I again ask to be interrupted if I am wrong on my figures—the City of Chicago, a majority of its residents are either foreign born or born of both or one foreign parent. We are trying to teach these men and women American institutions, the equality of rights guaranteed to every American citizen. We are trying to have them instructed in the shops and in the factories and other institutions the language of this country. We are arranging for lectures and instructions of all kinds, and, gentlemen, you will create for us one of the most insurmountable difficulties if the proposition which is contained in the sub-committee's report that is now under consideration be adopted. And, Judge Rinaker, it is no answer to say we will put this in the Constitution which will go to the people, and we will give you an alternative and put your minority proposition to go to the people. I don't know how that proposition will carry. No man can foretell, but we do anticipate, and candor at least will prompt me to talk out to you exactly as I think and feel, it throws upon us the burden of a campaign from one end of the State to the other. You have outside of Cook county a majority of the voters—true not a very large majority—but a majority. Of those voters outside of Cook county, a very large part, almost with unanimity will be guided by the report that goes out from this Convention hall. You know as a voter, as a citizen of rank and standing and honor in your community, what it is to have a man who is running for office put first on the ticket. At least, up my way, and I think the chairman will bear me out, that is regarded as a point of vantage. Men and now women will be seated days and days before the office of the county clerk so that when his office opens at the specified time the particular candidate can shove his name in first. You don't want such an advantage, I hope. I hope that you and your associates will come to see the matter in a light in

which I am trying to discuss it, utterly uninfluenced, I assure you—I need not assure you, you know it—by any political ambition, because I have never held office, unless this be an office, and I assure you I never shall hold an elective office.

So that there is no personal influence that is influencing me, but the influence of good government in Chicago and Cook county which means good government in the State of Illinois, is influencing me, and I am not blind to some of the inequalities that exist in the mentality of voters, whether they live in Cook county or live in Peoria or Sangamon county, but the government which holds its panoply cover over our heads was not formed with any idea of inequality. Any one who stood the test prescribed by the naturalization laws was cheerfully admitted to citizenship, and those bodies have made this country great in wealth, in power, in splendor. What are we going to say to them as we preach Americanization up in our county when some man or woman in an audience gets up and says, "Mr. Mayer, you want us to believe in equality of rights, equality of liberty, equal opportunities in the pursuit of happiness? Why, you just passed a Constitution which says that this man who works in a machine shop, and this man who works in a foundry, and this woman who scrubs floors or takes in washing, that her vote is only one-third of the vote of the woman who lives immediately across the county line." And it is no answer to say, "Mrs. Swatowski," or "Mrs. Schmidt, you have the same vote as Mrs. Mayer or Mrs. Miller." That is no answer to them because they will say, "oh, well, they are affluent and rich, they are surrounded by circumstances of affluence and comfort and ease, they don't care."

You are giving us a problem, gentlemen, whose solution you are making all the more difficult for us, and what I am now asking of you, and I do not speak for the sub-committee of Cook county; I have been in none of its caucuses; I have been in none of its conferences, not because they didn't want me, but because I have not been here. I speak only for myself. Limit, if you will, the representation of Cook county in the Senate, but not by one-third to two-thirds. You don't need the difference between 19 and 57, which makes it 19, to have the control, and you don't need the difference between 62 and 174, you don't need that. In other words, you will have 112 in the house as against our 62. Make our political tasks easier for us, gentlemen.

Some of your members have talked with me—I don't want to mention names, I am looking at one of them now—but I think riding with me in a train one time he found fault with the more representative people of Chicago for not taking a more active part in politics, and he was right, but our inactivity is due to the burdens that are increasing, to the difficulties that confront us, and pray do not increase those burdens and those difficulties. I am not appealing to the down State representatives in this Convention to give Cook county a majority, but I say you don't need a majority in both houses, you don't need any majority in the Senate which is so super-controlling and which puts it in your power to control the calling of a convention to amend the Constitution—and I think, as Mr. Miller pointed out, puts it in your power to expel by a two-thirds vote some improper representative in the lower house. You know what they did in New York. They expelled five members because they were Socialists. You don't need that.

Now, why rub it into us? Why not make our tasks easier than this proposal will make it? I know that you are not advancing this proposition merely to create an obstacle to the adoption of the Constitution. I know you are all inspired by high and honorable motives in your effort to get for the State an improvement in the existing Constitution, but the submission to the people of the proposition which we are now debating, if it carries in this Convention, gentlemen, will make the task very much more difficult.

I have talked longer than I had intended, but I have talked with some feeling, and I repeat, a feeling utterly uninfluenced or prejudiced by any reasons which may possibly occur to some of you gentlemen as inspiring opposition to your proposal. I am not going before the people of Cook county, men and women or either, to ask them to vote for me for any office, but I want to be able to go before the men and women of Cook county and

say, "We have given you a great improvement on the existing Constitution. We have given you a new document under which your rights are equally preserved and protected, and I want you to vote for it." Now, gentlemen, help me to discharge that task. (Applause.)

Mr. JOHNSON (Bureau). I would like to ask a question. Mr. Mayer, I have listened to you with very much interest, and I hope it may be helpful. I also listened to you the other evening when you were resisting the proposal to give Chicago home rule, and in your statement at that time you rather chastised the down State delegates because of our apparent apathy and indifference to that question, and, as I remember, you stated in your appeal to the delegates down State that we need you to help us save ourselves from ourselves. What did you mean by that anyway? What was it that you wanted to be saved from?

Mr. MAYER (Cook). I will tell you; taxation.

Mr. JOHNSON (Bureau). Who was to inflict the taxation?

Mr. MAYER (Cook). I did not agree with my brother members from Chicago in their report, and I think I had three others from Chicago to join with me. My fault was with my associates on my committee for creating an opportunity by which the property owners of Chicago could be taxed 15 per cent on their real estate and up to 10 per cent in addition, and I am opposed to municipal ownership of public utilities, and I understand you gentlemen objected to such a provision going into the State law, but you were perfectly willing to put it into the Chicago cradle.

Mr. JOHNSON (Bureau). Yes, but under that proposal no public utilities could be operated or purchased or leased in the name of the city unless upon a referendum vote.

Mr. MAYER (Cook). Entirely so.

Mr. JOHNSON (Bureau). And so no taxation could be inflicted upon you unless upon a referendum vote of the voters of Chicago. That is true, is it not?

Mr. MAYER (Cook). Entirely, sir.

Mr. JOHNSON (Bureau). Now, was it that vote that you were afraid of and asked us to save you from?

Mr. MAYER (Cook). No, sir. I said to you that I appealed from my committee to the down State committee. I was not in harmony with the members of my committee, and I think the Chairman, Mr. Wilson, did not concur, but what I wanted was your assistance to help me defeat the report of the Chicago committee. That has got nothing to do with the Chicago people. I am only one out of three million. They do a lot of things there, the majority, that I don't agree to, and yet I am in favor of the majority ruling.

Mr. JOHNSON (Bureau). And if that proposal should have gone through, and if it becomes a part of this Constitution, the entire electorate of the City of Chicago would be permitted to vote on those questions about which we are talking, the purchase or operation of public utilities?

Mr. MAYER (Cook). There is a three-fifths vote of those voting, that will carry the proposition.

Mr. JOHNSON (Bureau). Yes. Well, that is so much the worse, I am glad you spoke of that. And then you were a little bit afraid of the three-fifths of the voters of Chicago?

Mr. MAYER (Cook). Yes.

Mr. JOHNSON (Bureau). I kind of think I would go with you.

Mr. MAYER (Cook). I understand you all did when it came to your own communities.

Mr. FIFER (McLean). Mr. Chairman, I am admonished by my physical condition that I must be brief in presenting my views to the committee.

The gentleman from Chicago who has just taken his seat has argued important cases before me many times, when I was a member of the Inter-State Commerce Commission, and of all the great lawyers who appeared before that body the members considered the gentleman referred to as among the very first. I am glad to note that he has his old time energy and eloquence. Reference has been made by him as to what was said by Mr. Wil-

son, a great lawyer in the Convention that framed the Federal Constitution. Mr. Wilson it is said insisted on equal representation in Congress. What was said by the makers of the Federal Constitution must be viewed in the light of the situation of the country at that time. The fact is, the dangers arising from large cities did not confront the Convention of 1788. The country then was sparsely settled and there were no large cities in our land. New York City at the time, I believe, had not to exceed a population of 35,000 and it was one of the largest cities in the country at the time. The makers of the Federal Constitution had troubles enough of their own without looking into the future 150 years to our own time, and that doubtless is the reason why they did not provide in some way to safeguard against the dangers arising from large cities.

Two men, Jefferson and Hamilton, with a prophetic vision looked forward to our own time and saw clearly that great cities were likely to arise, and they knew well enough the dangers that would arise with these cities. At this time two theories of government grew up, the Hamiltonian and the Jeffersonian theories. Jefferson, in order to avoid the dangers arising from large cities, wished this country always to remain sparsely settled and an agricultural country. He said we should always remain a nation of farmers and by this means we could maintain a government whose laws would rest lightly upon the shoulders of the people. He maintained that we should raise the food products and send them across the sea to feed the operatives in the old country where they have strong governments capable of governing and controlling large cities. He said we should always have free trade; that protective tariffs bring factories and factories bring large cities which are difficult to control by a republican form of government. Hamilton saw as clearly as Jefferson the dangers arising from large cities. But he believed in diversified industries; he believed in a protective tariff and knew as well as Jefferson that the tariff would bring factories and factories would bring dense populations and that dense populations could be governed only by a strong form of government. Therefore he contended that the government should be made strong enough to begin with. He believed that the President and Senators should hold their respective offices for life or during good behavior and was in favor of granting the President the power to appoint the Governors of the several states.

Both theories of these two great men have been followed in part. We adopted the tariff theories of Hamilton and true to the prediction of both, the tariff brought factories and the factories brought the great cities, while at the same time we have pursued the policy of Jefferson in maintaining a mild republican form of government which rests lightly upon the shoulders of the people. There is not a statesman in America today who does not know the difficulties that exists in the control of our large cities by our present institutions. So that we are confronted today with a situation that did not confront the founders of the republic.

On the coming of the large cities the danger became apparent to all, and our sister commonwealths, as rapidly as the danger arose, met the difficulty by limiting the representation of the large cities in the respective legislatures. Many states have done this, among them New York, Massachusetts, Rhode Island, Pennsylvania, Missouri and many others, and today there is not a state in the Union where any large city exists where it is likely to control the state that is not limited in its representation.

It is said that our fathers rebelled and fought the Revolutionary War through for the reason that they were taxed without representation in the English Parliament. I call to mind that it was not the number of representatives that was complained of, but it was the fact that we were not represented at all. In my judgment, had we been represented in the English Parliament by ten representatives or even one the Revolutionary War would never have been fought, at least not at that time.

It will be conceded by all that within a few decades the City of Chicago will have the political power by the sheer force of numbers to make not only the laws for Illinois but to make future Constitutions for our State as well, and it seems to me that no fair minded man should contend that this should

ever be done. It will not do, as is contended here, that the City of Chicago will exercise this power wisely and for the best interests of the whole State. Whenever a political power is delegated to any group of men or to any political division, it is done with the full understanding that such power will be exercised and for one I am unwilling that the power to make laws and future Constitutions for our great State shall reside in any single city. The City of Washington is the best governed city in the country and the people there do not vote at all.

The interests of Chicago is purely commercial and those interests must, in a large measure, influence the judgment of its representatives. Outside of Chicago the people have diversified industries; their interests are agricultural, stock raising, stock selling, mining, manufacturing and many other industries and interests, and it would be unfair to permit one city having a single interest to control all the other interests of the State, many of whose representatives know little or nothing about down State interests. Mr. Wilson of the Constitutional Convention of 1788 spoke of equal representation. Representation in order to be equal should represent something more than population. It should represent the business, social, industrial, educational and moral life of a community and should Chicago be given a majority in the legislature based on numbers alone such representation would be not only grossly unequal but it would be unfair and unjust as well, and might become dangerous to the well being of the State.

We have already extended to Chicago the right of local self government free from any interference on the part of the State, but this does not seem to satisfy our friends from the City by the Lake. They not only wish to rule themselves insofar as their city government is concerned but are seeking the power to rule the rest of the State.

The State outside of Chicago has had a large majority in the General Assembly of the State ever since it was admitted into the Union and I think it will be conceded that this has resulted in no hardship to the people of the great city by the Lake. In fact they have always had the happy faculty of knowing how to take care of themselves. It does seem to me that if Chicago has two-thirds of the membership in both houses they will be quite as well represented as they would be in case that city had a majority. I do not doubt, that under the limitation proposed Chicago would be sufficiently represented and with the limitation the best results would be achieved for every section and quarter of our State. Under the limitation Chicago will still have the power as soon as it secured the majority of the people to elect the governor and all the other State officers which would be a sufficient check upon any legislation that might be proposed by the down State members. Chicago will soon have the votes to elect the governor and the governor makes all appointments and can give all the offices to that city if he wishes to do so. In addition to this, Chicago, as soon as it acquires the majority, will have the power to elect the two United States Senators and a majority of the members of the lower house of Congress. This being true it would seem Chicago should gladly concede to the down State a controlling influence in both Houses of the General Assembly.

I believe in county representation. The State is made of counties and each county has its own local government; its county officers; its county schools; its county industry and its county social, intellectual and moral life and these interests should be represented by at least one member in the General Assembly. Whenever any citizen of a county crosses the county line he feels, in a sense, that he is in a foreign jurisdiction and to give such a county no representation whatever makes the people of the county feel, in a way, strangers to the State government. There are thirty-four counties today in Illinois that have no representation at all. This it seems to me is not only unfair but unwise and that at least one representative should be conceded to each county, simply because it is a county. If I was a delegate in this Convention from Chicago it does seem to me I would favor this limitation, and as evidence of this I point to the fact that my county, the County of McLean, would, based on population alone, be entitled to two representatives but under the proposed arrangement we have but one and

from this it will be seen that McLean county gives up one-half of its representation and gives the other half to some down State county that has none at all. Under the proposed arrangement Chicago is not the only city or county that is limited. Many other large counties in the State gives up some of its representation which is given to other counties having no representation. By this means every quarter and section of our State will be represented and as a result good feeling will be created among all our people.

A large number of counties having no representatives in the General Assembly are found in southern Illinois, a section of our State that was first settled. The ancestors of the people in that section came there in a very early day and drove out the deer and the wolf and laid the foundations of the splendid civilization which we see around us today. Many of their descendants are occupying the houses and the farms bequeathed to them by their fathers. It is not a shifting population and nearly every one who is counted in the census is a voter. This is not true to the same degree in Chicago as the figures will show. Thousands in that great city are counted in the enumeration that do not vote at all. That city has a larger shifting population than any other part of our State. There are many in that city who are not voters and never expect to be voters and yet under the proposal under consideration they are to be represented in the General Assembly. The population down State is composed of a peaceful, law-loving and law-abiding people. They give but little trouble to the officers of the law but on the contrary are a safeguard against the lawlessness in the denser populated portions of our State.

It is my belief that a greater responsibility rests upon this body than ever rested upon any former legislative body of men in the history of our State. We are at the parting of ways and if Chicago is not limited now the absolute political power of the State will soon pass into the hands of the people of that city, and when it does the people down State will never recover that power except by revolution and revolution means war.

The gentleman from Chicago who opposes this proposition has well said that we have from the beginning of the government been extending the elective franchise. We have wiped away all property qualifications to vote; we have enfranchised a race and we have now enfranchised the opposite sex and our government, state and national, rests in the hands of a majority and that majority whatever it may be, or whatever it may become, is the government and can do with the government whatever it pleases. Our only safeguard against that majority, when it becomes inflamed, insolent and oppressive rest in the Constitutions of the several states and the Constitution of the United States. It should, in my judgment, become the duty of this Constitutional Convention to safeguard against the dangers that may arise by limiting the power of temporary majorities, and by limiting also the representation of large cities so that no single city however large shall ever have the power to make Constitutions and laws for the people of a whole State.

Let us then, friends, go forward, fearlessly, and do our duty as we understand it, and when this is done, peace and happiness and prosperity will in the future, as in the past, wrap our beautiful State in their easy embrace.

Mr. LATCHFORD (Cook). Gentlemen of the Convention, it has been said by innuendo or otherwise that the reason for omitting or cutting down the representation in Cook county is because of our cosmopolitan population. Like my friend from the ninth district I represent I believe one of the largest industrial centers in the country, and I can say to you gentlemen from down State, that tonight, hospitably arranged as they are, we have more farmers in my district than you have in some of the counties down State, you have spoken at times as to the reason why you ought to limit our representation, because so many foreigners are in Chicago. Who will doubt for a moment the Americanism of General Davis, one who is highly respected not only by the people of Cook county but by every man in the State of Illinois, irrespective of who he is or what he is, who will doubt the Americanism of my friend, Mr. Michal, who represents the Checho-Slav race,

who will doubt the Americanism of my friend in the front row, Mr. Cruden, who represents the bonnie Scott, and gentlemen of the Convention, I take off my hat to no man in this Convention as to what he is because when I came to this land of ours, when I settled in Illinois, I raised my hand towards heaven and with my left hand over my head I renounced the Queen of Great Britain, Ireland, the Empress of India, I swore by that allegiance to the Stars and Stripes, to uphold the Constitution of the State of Illinois and the United States, and that I intend to do no matter what our actions may be here for the people of the State of Illinois. I will say to the gentlemen of this congregation that it will cause a revolution if you change what you in the majority may do here. Let me speak gentlemen just for a moment, of representation by counties. I will take in the first, Bond county, although they are to their county employees in Bond county liberal to the extreme, why does the County Judge in Bond county receive the enormous salary of seven hundred dollars a year, and I understand from a reliable source that the sheriff receives in some of these counties less than one thousand dollars a year. How generous they are, but I can go down with some more of these counties, gentlemen, let us find Hardin county, how liberal in the extreme, they pay their county judge the enormous salary of twenty-five dollars a month, just think of it three hundred dollars a year, and let me say to you gentlemen who propose to vote for this proposal here, that if the taxpayers of that county had to pay thirty-five hundred dollars for every session, there is not a man of you would go back to your districts and say "I voted for that proposal," not a man dare say it, there is not a man in his district would do it. I charge you gentlemen, any man who will wilfully—you will pardon if I preface my remarks my saying that I am not a diplomat nor the son of a diplomat, I don't propose or aspire to be sent to the Court of St. James, and if anything I say may be undiplomatic, I trust you will pardon me—I will say without fear of successful contradiction that any man who votes for this proposal to send one man from each county in the State of Illinois is squandering the treasury of our great State. Last week, gentlemen, when I returned after the vote on the Initiative and Referendum, you know it was ignominiously defeated, still I am on the job just the same, one man addressed me and he said how are the con men getting along, and how I was going to address you as fellow con men, but let me say, gentlemen, that if this proposal goes over, you are perpetrating on the northeast part of the State the most gigantic confidence game that was ever perpetrated on a commonwealth in this country, the Governor to the contrary notwithstanding. My friend, Mr. Michal, talked in very nice terms about the band playing out of tune, but he forgot to mention that the band should play, "See the Conquering Hero Comes." Why, gentlemen, when you return to your respective homes, with the band playing and the people meeting you at the station, just whisper into the ear of the leader of the band and ask him to prepare six months hence to play the "Dead March from Saul," because you gentlemen of the Convention if you are going to put this over on the people of Cook county as sure as we are seated in this Convention today, there will be a solemn requiem the day after the votes are counted and it will be sacred to the Constitution of the State of Illinois, dying before it received its teeth, may it rest in peace, Amen. The prayer this morning, if I remember rightly, was honesty, justice and fair play. Is there honesty about the proposal? Is there justice in the proposal? Is there fair play among the men who are going to vote for the proposal? I don't think so. I just simply got up to register myself in opposition to it and I sincerely hope and trust that the chaplain will tomorrow in saying the opening prayer, say, forgive them Father, for they know not what they do.

Mr. WALL (Pulaski). It seems with all the great speeches that have been made, with the great divergence of opinion expressed here, there is still a chance to get together on this proposition. It seems there is a chance together, not on the question of whether or not the proposal should carry or ought to carry, we cannot make any agreement on that, but I believe that we upon that deep, sober second reflection, after calm deliberation that results

from rest and thought, and equitable consideration, that we can get together after all on the great cardinal principles that underly the discussion.

Mr. WALL (Pulaski). Now the first speech made this morning was a gem of oratory, and philosophy in its flow of legal lore, history, logic and eloquence, and I might add without satire, without impugning any man's motives, without any venom, without sarcasm, absolutely upon high ideals, and I think one of the gems, Mr. Chairman, in the great diadem that we have presented to us at this Convention from the time it sat on January 6th to now. It reminded me a great deal of what Horace Mann once said of Daniel Webster. Webster as we all know had one weakness and at this time he had imbibed a little too freely of the vintage of his own vineyard, but made a great speech and at the conclusion of his great peroration Horace Mann turned around to one of his friends in the audience and said, "Behold an isle of light in a sea of drunkenness" and I thought when the distinguished delegate from Cook county, Judge Cutting, had concluded this morning, I exclaimed in my own mind with the same ecstasy that man did relating to Webster, "Behold an isle of abstract principles in a sea of expediency." And then I began to think whether or not after all the great doctrine of expediency that has been used in the last two decades, not only in the State of Illinois, but in the nation and in the world did not of itself evolve new principles of government, that were just as sound as the principles enunciated by the Fathers, as the principles upon which this great speech was built this morning. The delegates to whom I have just referred starts out by saying that the step we are taking is a step backward, and runs contrary to the principles of representative government. I deny both propositions for these two reasons, first it does not destroy, belittle or confiscate representative government in my humble judgment in the slightest degree, and I base that upon the theory stated a while ago that the rule of expediency makes new principles of government that are just as sound as the abstract principles referred to, and I say that the reasons that impelled the State of New York and the State of Maryland and the State of Rhode Island and the State of Delaware and the State of Missouri and other states that have had to invoke this rule, were founded on just as sound principles of representative government as the old principles that were founded solely on population. What is representative government? Does it mean that one representative shall be elected for just so many of the population and for no other reason? Did the fathers intend, when this government was founded and they placed the popular branch of government on population that that alone was the only reason if you please for the election of officials to represent the people in Congress? If that were true that representation meant population and nothing else, I can see that the ground that we have taken here would be purely from expediency and nothing else, and there would be no principle whatever behind it. I don't concede that that is the meaning of representative government, and I say here in this connection that Cook county with 62 members in the House and 19 members in the Senate, making a total membership of 81 members will be insofar as the commercial advantages, financial, educational and all other interests are concerned, outside of politics, just as well and as ably represented as if they had the entire membership of the legislature, that every want, every necessity, for the existence of a representative can be settled with these 81 men the same as they could if they had twice or thrice that number or the whole body. So that when you say that you are being deprived of representation you can only argue that on the doctrine of comparison of the conditions, that comparison being based on what the present supposed representation is. You cannot say and you have not said, gentlemen, to your credit, you have not said it, that the under representation in numbers injured you in any way in any of the interests that I have mentioned, nor have all of you said that you would not be fully and ably and entirely represented insofar as your needs were concerned. Now the point I make along that line is this, that here are counties that, I might use the common vernacular, have been picked out because of their insignificant numbers, because of the small salaries that they pay their offices, and those reasons are offered why those counties

should not have any representation at all, and therein lies the iniquity of keeping those counties out of representation. As I said yesterday in the argument on the amendment they pay their portion of the taxes, they are as patriotic as any part of the State, they are an individual unit of state government the same as the first county, they have for practical purposes, county purposes, the same number of offerings, now it would be all right and I would concede that we ought to go back and have them remain on the basis of representation by population if those counties could have any representation at all, but wherein is the justice of saying because it may be reduced to a fewer number of representatives in the great county the small county therefore should have no representation at all. Now the Judge said that this is taking a step backward. I deny it. Gentlemen of the committee this is taking a step forward, that which we are seeking to do here. If we took the other step, if we permitted the representation to go along based according to population it would be an exceedingly great backward step, and no other state in the union today, not one, but what has taken the very step that we are undertaking to take here. Comparison has been made with this proposal to the constitutional provision in the State of New York, and I submit to you gentlemen in all fairness that the better comparison would be the State of Maryland, for this reason. The City of New York contained a great deal more than half of the population of the state. I believe over one million more than the entire population of the state. The City of Chicago contains 43 or 44 or 45 per cent of the population of the State, or the County of Cook, rather. Now the State of Maryland has the City of Baltimore and it contains 43 and a fraction per cent of the population of the State, relatively the same as Cook county. What are the restrictions in Maryland? Isn't that a fair comparison; and a better comparison than New York? You cannot say that because Chicago and New York are nearly alike, as a whole, that the comparison with Maryland is odious, it is better if the desired limit is created by the same threat, to-wit: after a while the growth of population in Baltimore and Chicago will be more than one-half the population of the State. What have they done in Maryland? They have limited the Senate to five members in Baltimore, and they have limited the House to 23 members in Baltimore; the House has, I believe, 102 in all, and the Senate 27, I think it is. You are already informed on that question. That is the limitation there. Has there been any objection to that you have heard of in the State of Maryland? Hasn't it worked well? Has Baltimore lost any of its rights to have its property represented; has Baltimore lost any of its prestige, has any of its interests suffered, any of its people dissatisfied? I have not heard of it, have you?

Now I say if we refuse to take the step that the Judge says is a backward step we are really going backward because we are the only State that has not done it. I am going to say further here, that the step that we are taking is nothing but the usual progressive step with all these other steps that we have taken. What is the cry now, what is the popular slogan in this country, what is the slogan of the millions upon millions "Go back to normalcy." We are going back to normalcy by taking this step. It started in the back woods of Maine, went to the Mills at Trenton, swept through the cotton fields of Tennessee, it blew through the whirl of the sand dunes of Arizona, it swept through the canyons of Colorado and ran through the orange groves of California and it never ceased until it struck the rocks at the Golden Gate of San Francisco. You are getting in line with the other states that are alike threatened with this growing representation. I say it is not going backward, it is going forward. Now by way of comparison the gentleman from Cook, Judge Cutting, referred to Nevada as being sick, being the sick man of the West, and he said that Nevada while she only had 77,000 people was still entitled to a representative, which was nearly two hundred thousand less than the quota. Now that is true, and that shows that the founders of the government were not able to anticipate one way or the other with reference to the growth of population.

Mr. FIFER (McLean). I want to say right there Judge Cutting did say after he got through, he admitted, my recollection was, that Nevada

only had forty thousand population when it was admitted, and Judge Cutting agreed with me that that was true.

Mr. CUTTING (Cook). About that.

Mr. FIFER (McLean). About that, and 77,000 was referring to its present population.

Mr. CUTTING (Cook). Yes, sir, that is correct, and that the congressional ratio instead of being 211,000 as it is now when Nevada was admitted to the Union was about 132,000.

Mr. WALL (Pulaski). It would still be very much less.

Mr. CUTTING (Cook). It was less because they lied about it to get two new senators, practically from California, that is what was done, but that is neither here nor there, that was a mistake or an experiment, it was not the regular thing.

Mr. WALL (Pulaski). I am not concerned with the truth and veracity of the fathers in Nevada.

Mr. CUTTING (Cook). The fathers did not deal with Nevada.

Mr. WALL (Pulaski). Well, they are fathers now, they are grand-fathers now.

Mr. CUTTING (Cook). I don't know what you mean by fathers.

Mr. WALL (Pulaski). I think I know what you historically refer to.

Mr. CUTTING (Cook). I think it was our uncles that did it.

Mr. WALL (Pulaski). It is said that there are 83 counties in the State of Illinois having less population than four wards in Chicago.

Mr. CUTTING (Cook). I beg leave to correct you there, I said there were forty counties in Illinois had less population than four wards in Chicago.

Mr. WALL (Cook). I understand you to correct the wards from two to four, but I did not understand you to say forty counties.

Mr. CUTTING (Cook). I made the correction.

Mr. WALL (Pulaski). I beg your pardon then; I understood you to change the wards from two to four,—well those four wards in Chicago, which I assume to be the most populous wards in Chicago, and have possibly one-third of its population, I don't know whether I am correct about that or not, because I haven't any means of knowing what the wards are.

Mr. CUTTING (Cook). They are the most populous wards, you are correct there, but they do not contain one-third of the population, there are thirty-five wards in the City of Chicago.

Mr. WALL (Pulaski). I understand there are some wards which have ten times as much population as other wards in Chicago.

Mr. CUTTING (Cook). That is true, but they are now redistricting the wards of Chicago to get equality of population.

Mr. WARD (Pulaski). These four wards, if they represent one-fourth of the population, under the proposal here would be represented by sixteen representatives. I speak now, proportionately. There are thirty-four counties in the State of Illinois that have no representation at all in the State of Illinois legislature, is that equity? Is that fairness? Is that representative government, for the State at large? If we had just six more we could make the comparison which Judge Cutting made. In Chicago four wards have sixteen representatives, and forty counties in Illinois have none. They have the same population. Now I don't know how the balance of the delegates down State feel with reference to whether or not we are intending to carry this thing through by brute force, sheer brutal force as indicated here by the second distinguished delegate from Cook who talked to us, and who made a splendid speech, whom I very highly, personally, respect, and like. I don't think that is the attitude here. I don't think it ought to be assumed to be the attitude, by you gentlemen. I resent gentlemen from Cook the innuendo even that we are trying to use brute force or that we have been treacherous to any cause or that we are out for political jobs or that we are selfish; that is not the purpose at all of asking you to adopt this proposal; on the contrary the sole and only purpose is, and I believe I speak the sentiments of every down State delegate who stands with me on this proposition, is to so organize our State government under this Constitution that every

interest, big and little, will receive ample representation in the legislature and no interest however small, infinitesimal and poor, no man, woman and child whatever their color, condition or station in life, but that may receive a just and true proportion of representation in the law making body that the fathers designed and justice demanded. That is all we want and that is our purpose in this. Now don't you see that if your population increases as it has in the last ten years until you have what has been eloquently said here a majority, when you get that majority unless you are checked on the basis of population being the element of representation, that within thirty minutes by a call on the telephone, you can assemble your representatives, and having a clear majority you can select the speaker, elect the clerk, appoint all of the officers and distribute the jobs, and that the Governor will have to ask you, insofar as he will permit you to do it, to do what he wants done, and you can completely dominate the interests of this State right out of that city. That is one of the things we are afraid of. We are imploring you and you ought not to ignore us. We are asking you as men of honesty and fairness, of deep susceptibility of the rights and wrongs that may be inflicted on the down State people to save us from the impending danger. While I admit it is only a possibility it soon can ripen into a probability. Now you can take this legislature with its ramifications down State, its business interests, its great influence that are both latent and patent, upon the body politic down State, already having a majority you can come down State here and insofar as the representation down State is concerned, in having a voice in this important matter, concerning the people of the whole State it will be nil, insofar as their influence is concerned and exerted on the legislative body in the interests of the people down State. Whatever you folks want you will get; and whatever you want to put over on us you will do. Now there is something else has been said here, I want to answer in my feeble way if I can it was said by one of the delegates, I think two of them, apparently to some feeling, I am not denying the integrity of this feeling at all, but I do vehemently deny the conclusion it reaches, that the caucus, down State caucus last night was influenced by an organization known as the Anti-Saloon League of Illinois, and I heard the name of a man named Davis mentioned in connection with that. That is the first time I ever heard that name and in my arguments let me admit now to you that I never heard, honestly, that name Davis before. I had heard of the name McBride, but I never heard of the name Davis. I did not know who was meant when the name was mentioned, but let me tell you what I know, and I know it as well as I know I stand before you, not a single delegate—I believe you ought to be frank with us and not make an accusation that you cannot prove—was influenced by that or any other organization. When saloons were open and liquor was a legal traffic I took a drink when I wanted it, and I take one now usually when I can get it. I have not joined that league. Let me say to you that that league has a right, and the Farmers' Association has a right and any other organization has a right to come here and sit in the galleries if they want to. As far as I am personally concerned my attitude in life has been just exactly what I said it was. I have no objection to the existence, operation or the results of the Anti-Saloon League and I have no objection to any organization whether it be right or wrong in principle if it honestly conceives it is right, and if it honestly conceives it is right in doing what it deems to be wise in furthering the interests of that organization.

Another word and I am through. I say fundamental principles may be evolved from expediency, and therefore those principles so evolved are sound. Why, gentlemen of the committee it was the necessity of expediency that turned the tide of battle at the field of Waterloo. It was expediency that caused Abraham Lincoln to sign the proclamation for seventy-five thousand volunteers, to put down the rebellion. He read and read the Federal Constitution and found nothing in it to guide him and he called in old Thaddeus Stevens, and he said, "Thaddeus I have read and read this Constitution many times and before God I don't know today whether I have

the right under this instrument to sign this proclamation for 75,000 volunteers." Oh, said Stevens, "Throw away your legal principles now, you have got a revolution on your hands, now, Mr. President, put it down and read the Constitution afterwards." And there, upon the doctrine of expediency was founded the battle which saved the republic. Can any man, I am speaking now clearly in the abstract, can any man support the argument that created the income tax, yet the government during the war purely from the standpoint of expediency put that in the law of the congress and it became the law of the land and we all paid it. Why? Expediency demanded it. What has happened since? Why the Constitution that we are trying to make includes it in one of its articles as an everlasting perpetuity. The Jews crucified the Saviour through expediency, and no man can deny hundreds of other illustrations that can be made here, to show you that out of the doctrine of expediency grows immortal principles that are just as safe and sane as any other abstract principle that could ever have been founded by the fathers or any one else.

Mr. MAYER (Cook). You spoke of the City of Baltimore—do you remember what the population of Baltimore is?

Mr. WALL (Pulaski). No.

Mr. MAYER (Cook). It is—

Mr. TRAUTMANN (St. Clair). About 750,000.

Mr. MAYER (Cook). You are instancing Maryland as a precedent for Illinois?

Mr. WALL (Pulaski). Yes.

Mr. MAYER (Cook). You know that the City of Baltimore was limited because of the colored population in Baltimore?

Mr. WALL (Pulaski). I know that the City of Baltimore was limited because the people of Maryland thought that they would get a majority in the legislature, and they would get it in ten years.

Mr. MAYER (Cook). It was on account of the colored population.

Mr. WALL (Pulaski). I deny that.

Mr. MAYER (Cook). That was the reason for it.

Mr. WALL (Pulaski). I would like to see the evidence of that.

Mr. MAYER (Cook). For the same reason that Alabama, Tennessee, Louisiana, and the other states—

Mr. LINDLY (Bond). Was it that same reason that made them limit Philadelphia?

Mr. MAYER (Cook). There is no limit there, they said it was not fair.

Mr. FIFER (McLean). It violates the principles for which you contend.

Mr. MAYER (Cook). You would not recommend Baltimore as a precedent for Illinois?

Mr. JARMAN (Schuyler). What has the population, being a large population, and increasing, have to do with it?

Mr. MAYER (Cook). Do you mean in Baltimore?

Mr. JARMAN (Schuyler). Yes.

Mr. MAYER (Cook). The Maryland legislature restricted the representation of Baltimore by reason of the large colored population.

Mr. JARMAN (Schuyler). Isn't the proportion in population in the counties in the State of Maryland, the colored population, as great as it is in Baltimore?

Mr. MAYER (Cook). No.

Mr. JARMAN (Schuyler). It is absolutely.

Mr. FIFER (McLean). What is the relative population?

Mr. MAYER (Cook). I am told it is one-third.

Mr. WALL (Pulaski). I am told it is one-fifth, and it is increasing a little more in Baltimore, than Newport, Kentucky, which is about one-tenth, in this newspaper article, but that is not authoritative at all. I would like to have you show me some statement from any authoritative source, that that is the reason why they limited it.

Mr. MAYER (Cook). I cannot give you the reason of the legislators, but the colored population did it.

Mr. CORCORAN (Cook). I will not detain you long, as I don't think the Cook county delegates have much chance of changing the vote of the delegates from down State, if they took from now until doomsday, but I would consider myself derelict in my duty if I did not warn the members from down State that citizens in my district—the gentleman from the first district of Cook, he comes from the most conservative district of the United States, I am sorry I cannot say that for my ward and district contains the headquarters of the I. W. W., and the Socialist headquarters, and their propaganda in my district has not fallen upon fertile soil for the reason that it did not affect our people directly. They have spread their propaganda around and the people said it did not affect them and they paid no attention to it. Mr. Mayer asked you to make this condition easier, and I will ask you to make your own easier. Mr. Mayer also asked you to help him when he goes back to Chicago, and I will ask you to help yourselves, when these men, and this propaganda is spread in Chicago, especially in my district, and they can show the trades people and men there that it affects directly, I ask you to help yourselves. Then I am afraid that that seed will fall on fertile soil. The radicalism won't remain in Chicago, it will spread down State to the industrial centers, and especially in view of the charges we hear made, that this is a corporate controlled body. I deny that statement but we have heard that charge made, and it looks as though it would make fine propaganda to use in the circles of the I. W. W., and the Socialists, and I warn you gentlemen down State that if radicalism starts in Chicago it will spread to the down State.

Mr. WOODWARD (Cook). As a member of the Cook county delegation, I find I came here with some ideas which are somewhat at variance with some of the ideas of the other members of our delegation, because it has been said by some of those that preceded me that they came here with no idea whatever of any limitation being placed on Cook county. I did not come here with that in mind, I did not expect when this matter came before this body that I would take any part in the debates on this question, I felt that there would be in all likelihood an attempt and probably a successful attempt, to place some limitation upon Cook county. I somehow felt in my mind that all that would apply to would be to the senate. In discussing privately and personally with members from down State from time to time on this question, my confidence in the thought that that would be the ultimate result of our labors here as regards this legislative article, increased, because I was constantly in receipt of encouragement to the effect that Cook county and Chicago would be accorded a square deal, and so I am today, I might say unprepared to enter into any lengthy discussion of this matter. I agree with some of the speakers from Cook county when they say that any arguments which may be advanced in behalf of our cause will receive but little heed from those of you that are so banded together and so determined to perpetuate what I consider to be a great outrage upon Chicago and Cook county. The delegates, the delegate from Macoupin, referred to some attempts that were made in the nature of a compromise, and in his remarks he referred to and used my name as being one of those that he understood was agreeable to go along with the proposition submitted by the chairman of the conference committee, which was selected in the early part of our session for the purpose of trying to work out some compromise. I assume, while I did not catch in full the remarks of the delegate in question, I assume what he stated was absolutely true because I assume that the chairman of that conference committee, that small committee, makes no representations whatever to the other conference committee which was not justified by the assurance of the members that he was attempting and had authority to represent, and I take no issue with these men whatever, but I want to say that my attention was particularly called to the remarks of the delegate from Macoupin in his emphasis of the various attempts made for the purpose of getting together in the nature of a compromise between the delegates of Cook county and the delegates from down State, and I have been trying to turn over in my mind since he made those emphatic assertions what had been done in behalf of the down State members, at least, towards

tying to work out anything that had the semblance of a compromise, so I have drawn a picture in my own mind which illustrates my views on that subject at this time. I have been unable to see that there has ever been any ground or any attempt made to which the word compromise as I understand it in its fullest meaning, might apply. I do believe in the earlier part of our discussions, unofficially and otherwise, that it was in the mind and in the breast of a great many members from down State, and there was a desire in their hearts to give Chicago and Cook county a fair and square deal, and I believed it was in the minds of some of those who have stood here and so aptly defended their position today. I am referring now to the members from down State who have spoken. I am sincerely of the belief that it was in their mind that a compromise would work out and that compromise would work out, and would give us the representation in the popular house to which we are entitled, and limit us in the senate, for their so-called protection, and I believe that that opinion, and that intention was in the breasts of the delegates when we adjourned at the summer's end, and I believe that the suggestion of some of those delegates, the motion to reconsider the article was brought about before we adjourned for the summer, but since we convened the gentleman from Macoupin said something has occurred which has apparently changed the minds of all the delegates from down State.

Well, since we have convened, so far as I am informed, I have not seen nor have I heard of anything that has been submitted by these various conference committees as the result of their various caucuses which assumed the character or nature of a compromise, and now I am coming to the picture which will illustrate the matter. You know we all have our ways of presenting our views on the point, and I do not happen to have in my vocabulary words which I might express myself as clearly as many of my colleagues, and as many of the able men from down State do, so I have my own way of presenting my views, and on this question of what has been attempted I want to draw a little picture, I think this is what happened, it is my understanding of what happened between these conference committees. I think it was approached in some sort of this manner, a picture was drawn for the benefit of our conference committee, in well understood terms. We feel, gentlemen, we from down State feel that we are about perpetrate an outrage on the members from Cook county and on the City of Chicago; we feel that we may be indicted for this which we are to perform and we much prefer to be indicted for a misdemeanor rather than a more heinous crime, and we feel that if we could get Chicago consent, if she would consent the indictment would be for a lesser offense than if we proceeded with that with which we are bound and determined to do by force.

Now it seems to me that is as far as that committee, and I don't mean to offer any criticism to the conference committee, because I believe they carried out the instruction of those who were responsible for their appointment, but that is as near as anything I heard of in the nature of a compromise. I was pleased to hear the gentleman from Macoupin, state with what consistency the gentlemen from Cook county had maintained their ground in this matter, and I was pleased to note that they on the other hand had offered to you gentlemen something that was in the nature of a compromise, and that they suggested it was their belief that they could secure the unanimous voice of every delegate from Cook county in behalf of any section, to the end that it would only be a one house limitation. Consistency, I fail to see any in it so far as it applies to the members down State.

In the earlier part of the session delegates gave me assurance from time to time of their intention to treat us fairly, private assurances, that they expected ultimately we might be limited in one house of the legislature, and then suddenly after we had gone along in this friendly fashion, suddenly this revolt is brought about and we are confronted with the one proposition will you accept this willingly or must we shove it down your throats? Brought about by what? By a better understanding, partly by reason of a better understanding between these gentlemen who represent the

smaller counties, and as has been said, they will go home and be met by brass bands and applauded for the grand work that they have done for the small county. I have no criticism to offer to those gentlemen who are doing what they in their conscience feel it is their duty to do for the smaller counties who have been so long without direct representation in the body that meets in this house. My good friend on my right, the representative from Pulaski, I was going to say my acrobatic friend, but I will change it and will say my amildextrous friend, as was suggested by my friend from Cook county, says shall we deprive them of representation by the right hand, deprive Cook county of representation with his left hand, yes, with both hands, and when I look into his kindly face and the kind faces of many of the others of you I want to say I did not think it was in your hearts to do what you are attempting to do to Chicago and Cook county. I have taken occasion during the last few days to discuss personally with some of the members outside of the hall this very question, assuring them that they need not feel bound by any personal expression that they might make, and I reserving that same privilege, and I know what is in the hearts of these gentlemen, I know that they feel that this is going to be the meanest trick that some of them have ever done in their lives. Gentlemen, I do not believe that you have been consistent, as I said in the beginning, I have not expected to take any part in this, but I would feel that I had been derelict in my duty if I did not arise at this time and enter my protest in the record on this question. Consistency, I cannot get away from that somehow or another, they seem so inconsistent, because I say that some of them have intimated and that quite recently that they would feel much better if some plan could be worked out whereby Chicago and Cook county would be limited in one house only. When I put the question to them, squarely, and solicited their aid in that respect, then I have gone crazy. I am reminded of a little anecdote which seems to me demonstrates the case. Murphy was very sick and he was not expected to live much longer so he thought it best to advise his wife about some of his business affairs, so he said, "Mary, come in and bring a witness with you, I desire to tell you something of my business affairs," and Mary came in, and he says, "Mary, O'Brien owes me four hundred dollars," and she said, "Oh, his mind is as clear as a bell, I have hopes for him, he will recover," and Murphy said, "Malone owes me eight hundred dollars," and she said, "Oh, what a mentality, I am sure he will recover," and then he said, "I owe Casey five hundred dollars," and she said, "There he goes crazy again." That is the way I am treated when I try to get these fellows to recede from this damnable position that I say they have taken in this matter, to at least grant equal representation in the popular house of the General Assembly.

Mr. RINAKER (Macoupin). The gentleman who has just spoken referred to a remark I made in which I quoted his name, I was not attempting to quote anything that had been said by any member at any conference committee. What I had reference to was what took place on the 17th day of June, when after Mr. Hamill had spoken, and while section seven was under discussion, with reference to the supporting of the proposition as it was then before us, providing the three lines were stricken out as moved by Mr. Gorman, as found on page 47 of the proceedings, Mr. Woodward of Cook talking, said "I am in favor of this proposal provided however, you eliminate the last three lines." That is what I had reference to.

Mr. WOODWARD (Cook). I was not finding any fault with you on that.

Mr. RINAKER (Macoupin). But I thought it would be better to have it in the record.

Mr. DAWES (Cook). Gentlemen of the committee, I had not this morning expected to take part in this discussion for I thought I had detected a firm but regrettable tone of finality from the other side of the house which would indicate that the voice of persuasion from this side could be little more than a "morituri salutamus". But I feel a sense of obligation, to my constituency and if I think my constituency will be invaded in any of their vital rights, I regard it as my duty to speak in their behalf. I regard the proposal that is now before the Convention as a change in the

fundamental policy of the government of this State, I represent also the citizens of all the State as well as my own district, and I feel it is my duty to say a few words. The government under which we live here succeeds other forms of government that have been more free. The lack of government among the Indians gave to them a perfect liberty. But when the government of the United States of America was established over this land, then came the balancing between the blessings of liberty and the promotion of the general welfare. Our government was established over the territory of the northwest, when the States of Virginia, and of Kentucky, and New York ceded their claims to this territory, and it became the property of the United States. When the question of settlement came up there were none who were ready to brave the hardships of the wilderness, to establish their homes, and the homes for their children until a body of picked officers of the Revolutionary army signified their willingness to come and to establish the government of the United States within the borders of the northwest territory, provided they could be guaranteed such a government as they would regard as a fit government for them, and for their children to live under during all of the ages. That great orator Senator Hoar, upon the Centennial celebration at Marietta, Ohio, alluded to this great ordinance of 1787 as being a compact agreement between these men and the government of the United States, that was fundamental to all Constitutions that would be formed in the state thereafter. And that document called for the exclusion of slavery within its borders, the promotion of education, of morality, and religion, and in almost its first line established as a fundamental law of this land for all time, the principle of proportionate representation. These doctrines were the doctrines of the men who established this State. In my own veins runs the blood of the very men who came out to this country; the hand that indited part of the ordinance of 1787 was that of my great, great grandfather, and his son sat in the first Constitutional Convention in the State of Ohio, which perpetuated in the government of that State the principles which had been laid down in that ordinance. And what prosperity have we witnessed under the application of such principles to the government of this territory! Where in all of the history of the world has there been seen such progress in industry and agriculture, in the sciences and in the arts, wealth and in the distribution of wealth, and in population, as has been witnessed in these great States of Ohio, Indiana, Illinois, Wisconsin and Michigan? The government that was established by these men is my government; the political creed that they announced is my political creed. I know no other. But gentlemen, I have never been taught, nor have I believed that there is any principle of government which can be rigidly applied, and all of the consequences of which can be logically accepted. The progress of our people, and their pride in this government springs quite as much from their entire satisfaction with those principles as from the principles themselves. Those principles were in harmony with the sentiment and the feeling of all the people who lived under that government. And that correspondence between these great principles and the comprehension and acceptance of them on the part of our people—that is what brought about our growth and established this record of which we are all so proud.

I feel that the men who established this government had in their minds another principle, and that is this, that the government must be adjusted and adapted to the sentiment, and the feelings of the people who constitute the government, and that, if you please, is expediency. It is not a principle, unless it be the principle that the sentiment of all the people must shape and change and alter and give character to the government, to which they subscribe. We have witnessed in this country from time to time as the result of this growth, changes in the conditions of living, changes in the distribution of wealth, in the pursuits of the people, and there has come about, and we all recognize it, a feeling of distrust, and misunderstanding. I shall not admit that there is any misunderstanding between the people who live on the farms and people who live in the cities. But the more thoughtful of the people, wherever they may live, realize that, due to

the environments under which people live they become susceptible to certain false doctrines, and certain dangerous ideas. You are afraid of corruption in the cities; you are afraid of Tammanyism, and so are we; but are you not afraid of Grangerism? Does the history of greenbackism and populism bring you no fear? Do the doctrines announced by the Farmers' Alliance seem to you consistent with that firm spirit of loyalty to our form of government which is necessary for its maintenance and strength?

No men are perfect. Men are liable to make mistakes, and our people at all times are subject to some false doctrine, and there is danger that ought to be guarded against. We, who come from the County of Cook, facing this difficult problem, (and the difficulties of it are as well appreciated and understood up there as they are by yourselves), have realized that expediency must modify to some extent the principles that have actuated the founders and supporters of our government up to this time. And what is that expediency? It is that no part of our people, subjected to any of these false doctrines, or improperly controlled by local interests should gain complete domination over the State. In all of the publications that were sent out when we were trying to build up and encourage a sentiment to bring about this Constitutional Convention, there was a frank acknowledgment of the necessity of accomplishing this very thing, and in some of these documents the suggestion was made that it should be accomplished by limiting the representation of the City of Chicago and the County of Cook in one branch of the legislature, and limiting the representation of the remainder of the State in the other branch of the legislature, so as to protect those who live in the city and those who live in the country, equally, against the false doctrines and dangers which would come or which might possibly come from either the city or the country. Is there any policy of expediency which would justify it that those who live outside the borders of the great city should control and dominate the State?

Gentlemen, our session here together has been long and pleasant; the attachments and friendships that have been formed here will never be forgotten, for they stand upon the firm foundation of mutual respect. I have long since ceased to fear that the finished product of this Convention would not be worthy of the admiration and the acceptance of the people of this State. I ask you therefore to measure the exigency, and measure the expediency necessary to meet that exigency. And I ask you to put yourselves in the place of the men who sit here representing a constituency in Cook county, a constituency that has been educated to fundamental American doctrines a constituency that lives under a Constitution that succeeds the ordinance of 1787 in which there was declared a guarantee of proportional representation. I ask you to realize that it required some effort on our part to be ready to say to you as so many of us have said that we are willing to go back to our people and say to them that we gave our consent conscientiously and in good faith to a stringent limitation of representation in one branch of the legislature. To that condition we have endeavored to educate our people, and I have reason to hope that our people would understand us if we go back to them and say "to this we have assented." But upon what grounds could we justify a further concession than this? We have heard no arguments here that we could use to our people, when they charge us with having surrendered a portion of their political rights so sacredly guaranteed to them and so long enjoyed by them. It is perhaps useless to talk, but let me say consider well, before you jeopardize the future of the instrument you will adopt; don't sow in this State the seeds of distrust and dissension.

Mr. DUNLAP (Champaign). I know you are as weary as I am, so my remarks on this question will be as brief as possible. Statements have been made here from which I would infer that the efforts of the down State members for a compromise have been little; as a member of the legislative committee and a member of the sub-committee and a member of the conference committee to confer with the Chicago committee, I can vouch for the statements made by the delegate from Macoupin that we did endeavor to arrive to the best of our ability at some compromise on this question. Now it

must not be forgotten in this weary discussion that we are going through a very interesting debate, because it presents every angle of this question and some that I never suspected existed before. We must not forget that in the passage of sections six and seven before our adjournment in July that that was a compromise, but it was a compromise that the Chicago members were evidently not satisfied with, because they are now discussing this question on a motion to reconsider the vote by which that compromise was affected, so don't fail to remember that this question is not opened up at the request of the down State members, but at the request of the members from Cook county. Criminations and recriminations have very little place here. They have nothing to do in the way of arguments. The gentlemen have said that population from the standpoint of the Cook county members is the only fair basis of representation. We would infer from what they have said here that this government of representation is founded on that principle. We have only to look at some of the forms of government in this great nation to see that that has been clearly departed from. In the first instance, in the nation itself, in the Senate and in the House of Congress. Every state, no matter how small the population was given a representative in the House of Congress. After that any increase of its representation in the congress, in the lower house, depended on population, so no matter how small or insignificant it was they had this representation of at least one member in the house of Congress to represent the interest of that community or state.

Now let us go down to our own government here in this State; our county government that we have been talking about. In the representation of the members of the township on the Board of Supervisors, each township in the county is given a representative in the board. Many of the townships have a population of only five to seven hundred, yet they have the same representation that a township has that has from forty-five hundred to five thousand. Now there is inequality of representation on population, that the unit of the county, the township was given. Now after the township had arrived at a population of forty-five hundred for each additional fifteen hundred population they received an additional representative on the Board of Supervisors. I am referring now primarily, because I believe those figures have not been changed, in a good many years, that that still is the basis of representation in our county government, to the townships. Now if those two extremes, the county and the nation, have adopted the principle set forth in this amendment offered here why can't we say it is the basis for representation in the General Assembly of this State of Illinois? Each county being given under this amendment a representative, and then when they have arrived at 75,000 population they are given a representative for each fifty thousand population. Is there anything inconsistent with the republican form of government in that sort of a proposition? Is there anything unfair about it? Is there anything brutal about it, as one gentleman said this morning, and is there anything crude about or anything new about it? It is one of the forms of government by representation that we have accepted for many years, and so I say it is not a new principle of government, neither is it a brutal thing for us to apply this to the government of the State of Illinois. Now when we look back into the history of Illinois—I will preface that by saying, that you would think from the speeches made here from Cook county that Cook county had suffered at the hands of the majority of down State representatives in the General Assembly. We challenge the gentleman from Cook to produce any instance where there has been any unfair advantage taken which would deter in any way the development of that section of the State by the action of the General Assembly, by the majority down State. Now they say it is unfair; that this sort of proposition is unfair. How is it unfair? There is no limitation placed upon the representation of Cook county or any other county in the General Assembly; under this proposition, it is a State-wide proposition. The only departure that they can criticize in this proposition is that we have given a representative to each individual county of the State. We have not in any way taken away from Cook county what we

have not taken away from every other county in this State, to put it the other way, we have given to Cook county the representation that we have accorded to every other county in this State, and the only departure from it is as I say the same departure that the nation made when they were first organized, and not a representation that we have in the Board of Supervisors in our county legislation, so if there is anything unfair about it I am unable to see it. Now they say that constitutions were made to protect the minority, and that, gentlemen, is just what the delegates down State are looking at. We are looking at the future, and in looking at the future we see the same menace to the State of Illinois that the gentlemen from Cook, some of them, and many of the citizens of Cook, the civic organizations and social organizations from Cook see will happen if Chicago is allowed to have a dominating influence in State politics.

Now I have always been consistently in favor of home rule for Chicago. I have been giving Chicago everything that is possible to give them, which does not interfere with the control of these matters which essentially come under the State government. When we had the revenue section up here in 1898 we had application after application and delegation after delegation from Cook county to talk to us about revenue matters, and inevitably they said we must not allow tax legislation that might be imposed by the taxing bodies of Chicago to exceed a limited amount, as soon as they do the thing will go wild. Now we have the gentlemen from Cook county in this Convention saying that the principle of taxation without representation is wrong, and yet when they ask for home rule for Chicago and we offer them an unlimited taxation up there to be determined by their own governing bodies they say "No, we don't want that." An eminent gentleman of this Convention has just said in our hearing today and yesterday that he did not want that, he wanted to be saved from Chicago on account of the matter of taxation. So in my experience in the General Assembly from several years back up to the present time I have had citizen after citizen, eminent, intelligent men coming to us and saying save us from ourselves and do not give us too much authority up there. Now after all this sort of propaganda that I have been listening to for thirty years I cannot help but think it might not be a good thing to help give Chicago a dominating influence over the State if they cannot take it themselves. I don't know but in looking to the future maybe we better protect ourselves against the majority, so I am inclined to think that is one of the things we ought to do, and I believe in approaching this matter here we are not brutal, neither are we departing from well known methods of government, and I submit for your consideration this proposition.

Now it must not be forgotten by you gentlemen from Cook that we have along with this provided a measure of relief for you, that is if the citizens of the State want it that way, in other words we are providing a substitute for what we are here proposing to do, and to put into the Constitution, as our best proposition. We are offering a substitute that can be voted on by the people of the State and we propose to let the people rule in that way, if they prefer that to the one which we put in the Constitution or hope to put in the Constitution, then it is up to the people to determine. So, let us go to the people. Now let us not get uneasy or excited about the matter; we have put in the Constitution or hope to, this proposition of county representation with an additional representative according to population, and give you along with that proposition, which can be voted on, and which, if you can convince the people of the State is a better proposition, will provide what you gentlemen are now willing to concede, which you in July were not willing to concede; limitation in one house. The gentleman from Cook remarked that we, if I recall rightly, were assured that we would have at least three votes on that proposition in this house, if that was determined, and the House left without any limitation. That is the only assurance that I recall that we were given. Now it may be that we felt differently about it, perhaps we did, now it is unfair for the gentlemen from Cook to say that we down State people have changed our minds at the instance of the Anti-Saloon League, any more than it would be unfair to say that they

are influenced by the views expressed in the Chicago newspapers about the matter of limited representation. I take on myself the right to say I am influenced by my own judgment on that matter, and I take it the delegates from Cook county are influenced by their own judgment and not influenced by any extraneous influences of newspapers or Anti-Saloon Leagues. I think we are offering a very fair proposition in giving you the alternation which can be voted on by the people of this State.

Mr. MILLER (Cook). I move, Mr. Chairman, that we do now recess until eight o'clock.

Whereupon a recess was taken until 7:30 o'clock p. m., Thursday, December 2nd, A. D. 1920.

7:30 O'CLOCK P. M.

Committee of the Whole met pursuant to recess.

CHAIRMAN SHANAHAN. The committee will come to order. When the committee adjourned, we had under discussion a substitute offered by the gentleman from Will to section 7. I will recognize the gentleman from Cook, Mr. Traeger.

Mr. TRAEGER (Cook). Mr. Chairman and gentlemen of the committee: I am not going to attempt to take up any of your time, because the issues have been discussed so ably by the various speakers during the day that it would be useless for me to attempt to go into further details and have a repetition of what has been said. However, I want to go on record as protesting against the proposition as proposed.

Gentlemen, I believed when this matter was first taken up in the committee that the down State members would insist upon limiting us in the upper house, but never for a moment did I consider that they would go as far as limiting us in both houses. This is more important, I believe, than we would offhand consider it to be. If this should become a law, you are going to bring about a hatred between the cities of 101 counties and the one County of Cook, a hatred that we don't know where it will end, a hatred that existed between the north and south at the time of the Civil War, and I sincerely hope that the gentlemen from down State will seriously consider this before voting upon this matter.

I would like to ask why the fear of Chicago, why apparently the great fear that the class of people that come from Chicago are not entitled to be trusted, the fear that they are a class of people who if given an opportunity will never play fair but will take control of the State and from there take control of the nation, if given an opportunity. I want to say to you that the City of Chicago, the greatest city, in my estimation, in the union today, has as good a class of citizens as the average city in the United States. True we may have some that may be known as undesirables, but I want to ask you, compare the size of the City of Chicago with some of the smaller cities down State, and then average the crimes that are committed in Chicago and in those smaller cities, and see if we don't stand out as well as the average city. I want to assure you that a great deal of your fear is imaginary. I hope that you will consider seriously at this time before you vote, the necessity of giving Chicago and its citizens what they are entitled to. If you must curb them in one house, well and good, but in the lower house, the house of the people, give us an opportunity to go along as we have gone along in the past. If you curb us in the upper house, I would like to ask of you what Chicago could do if we were ever to have control of the lower house? The way that you have us tied up with one-third in the senate is sufficient to curb us in every respect, irrespective of what proposition might come up at any time.

Give up the opportunity to talk with you, to mingle with you not only in this Convention, but let that same good spirit exist in this State after the Convention is over. Let the delegates from Chicago and Cook county be in a position when our work is done and adopted that we may go back to our county and our city and say to our citizens, "You are still a one hundred per cent citizen," and don't place us in the position that we will

go back to our people and will have to admit to them that they are one hundred per cent citizens when it comes to paying taxes, but when it comes to the matter of representation, they are about 33½ per cent. Let that not exist or be brought about in a civilized State.

This country has been opposed to the rule of the Czar and the Kaiser and the various rulers who ruled with an iron hand. Our boys left our shores and went over there to free the world of such rule, and after all this work has been accomplished we must listen to our citizens from the great City of Chicago when they say to us, "You have relieved the citizens of Russia from oppression from a Czar; you have relieved the citizens of Germany from the oppression of a war ruler; you have relieved various countries of their oppression and gave them home rule, the right, no matter how large or small the country, to govern themselves, and yet here, the country that preached democracy, the freedom of the world to all the nations is going to adopt a principle that in my estimation is as strong a hand as the hand that the Czar and the Kaiser ruled by at any time." Make us of the City of Chicago equal in legislation, as full fledged citizens, compared with any other part of the State.

I want to appeal to you in all fairness. I am not going to take up your time any longer, but I hope you gentlemen will seriously consider that when the delegation of Chicago and Cook county go to their respective homes, they may go back and say to their citizens that "I and you are still free American citizens in the United States and in the State of Illinois." (Applause.)

CHAIRMAN SHANAHAN. The gentlemen from Cook, Mr. Miller.

Mr. MILLER (Cook.) Mr. Chairman and gentlemen: I would not say anything on this matter, in view of the able speeches that have been made, and certain others that will be made, were it not for the fact that I want to discuss for a few minutes with you down State gentlemen what seems to me a very practical question, and it happens to be one that has not heretofore been touched upon so far as I have heard. As Mr. Roosevelt said to Mr. Harriman, "We are both practical men, and we want to discuss a practical subject," and it is particularly pertinent at this time because of some remarks made by Governor Fifer.

Speaking for myself only I am in this peculiar condition and frame of mind: At all times since I first came down to this Convention I have not been merely willing to assent to a limitation in one house, namely, the Senate, but I have been in favor of it. I have not said much on the subject, but that has been my frame of mind, and the reason I preferred it is that it seemed to me that the people down the State would feel safer if there were such a limitation, that they would feel it was only justice to them, and that the County of Cook and the people down State would get along better together, understand each other better and be more harmonious if that were done, because it would protect you against any possible danger from that wicked City of Chicago, as some people think it is. I do not. That has been my attitude from the start, and whatever you understood the Cook county men to mean last spring, or whatever you understood them to mean night before last, the vote has not been taken, this thing is not over, and you now understand that the great majority of the delegates from Cook county are willing to do that thing, and you know it before you take the vote. I would like to see that done and no limitation in the house, because if it were done I think it would last, I think it would be satisfactory to a great majority of the people of Chicago and Cook county, that they would see the justice of it and that it would not be upset. That is my position.

Governor Fifer in his talk said this, in effect: "We want to so fix things here that that little corner of the State up there at the northeast corner will never make a Constitution for the State of Illinois; that thing would be intolerable." In effect he said, "let us fix this thing right now so that can never be done, because we down the State might just as well go out of business if it would." Now, that, of course, is probably in the minds of many of you down State. You fear that Cook county will gain a majority

of the people, and that this thing must be fixed for all future time so that that little corner of the State will never make the Constitution. I think that you have forgotten or have overlooked some things that you doubtless know.

It is unquestionably true, in my mind, that that little corner of the State, to-wit, Cook county, will grow, it will grow faster than it has, faster than some of you fear, and the reason is that it is on the Great Lakes, that transportation there by water is getting more valuable all the time because the rail transportation is getting more expensive and less efficient, and in the last ten years the great growth has been of the cities on the lakes and almost without exception those off the lakes and tide water have lagged behind. It will grow in ten years or less—probably seven years—the County of Cook will have a majority of the people of this great State; in 15 or 20 years a great majority. I believe that to be inevitable. And Governor Fifer's position, and doubtless that of others, is that we must fix this thing now so that those people will never make a Constitution for the State of Illinois.

On the other hand, gentlemen, having a little spare time this summer I read what doubtless all of you have read, certain history of the making of State Constitutions in these United States. It seemed to be assumed by Governor Fifer that a Constitution can be changed, amended or superseded by a new one only pursuant to the provision contained in the document itself. That was so decided by the State of Rhode Island in 1843, I believe it was, and that is the only decision, so far as I have been able to find, on that side of the question, and all of the other decisions, and there are many of them, are flatly to the contrary, including the Supreme Court of the United States. Not only is that true, but in the last hundred years there have been more than 30, about 35 of the states that have made and held Constitutional Conventions, framed new Constitutions, without any permission in the former Constitution whatsoever, and those were not revolutionary conventions, and they were not forcible conventions; they were not unlawful and they were not wrongful, because the courts have held that they were rightful, lawful and proper in every respect. Not only has that happened, but in seven instances new Constitutions have been framed and adopted and have gone into force when the calling of the Convention, the framing of the Constitution and its submission to the people have all been directly in the teeth and plainly violative of the provisions of the Constitution itself, and yet they were not revolutionary conventions, they were not wrongful or unlawful. They were, as the courts have held, rightful and lawful in every instance, and in every instance except the one Rhode Island case those Constitutions so framed have gone into effect, and wherever the courts have been called upon to pass upon that question they have with absolute uniformity, so far as I know or have been able to ascertain, except in the one State of Rhode Island, been held to be rightful and lawful and properly framed Constitutions.

Why? Let me read just a word from the Court of Appeals of New York on that subject: "Neither the calling of a Convention nor the Convention itself is a proceeding under the Constitution. It is over and beyond the Constitution."

The Supreme Court of Virginia said: "The Convention of Virginia had not the shadow of a legal or Constitutional form about it. It derived its existence and authority from a higher source, a power which can supersede all law and annul a Constitution itself, namely, the people in their sovereign unlimited and unlimitable authority and capacity."

To the same effect is the Supreme Court of Massachusetts, where it has said that the doctrine that the right of a government to govern rests upon the consent of the governed leads directly to the corollary that the right of the majority to frame a government necessarily implies the right of the majority to change it.

North Dakota's Supreme Court used this rather strange language, that "the unauthorized convention would be unlawful in this state." Not only those states, but many others that I can cite, have used similar language

to those that I have mentioned. These conventions, many of which have been held without authority of the Constitution—

Mr. FIFER (McLean). May I ask the gentleman a question? Is it your position that an irresponsible body of men could meet here in this hall without being called together and make an instrument called a Constitution and submit it to the people?

Mr. MILLER (Cook). A wholly irresponsible body of men?

Mr. FIFER (McLean). Yes, if they can meet here and do that?

Mr. MILLER (Cook). I don't think any case has gone quite that far, but I will tell you what has happened, Governor.

Mr. FIFER (McLean). I know they have gone this far, that where there was some irregularity in the calling of the Constitutional Convention, but they met by the suffrages of the people and it was submitted in the regular form and a majority of the voters, no protest, voted for it, that the defects in calling the Constitution together were cured, just like the service of summons. There might be some radical defect in it, but if the party once goes in and pleads to the cause, he is in court and the writ is sufficient.

Mr. MILLER (Cook). What do you mean by "defect"?

Mr. FIFER (McLean). A defect in the writ of any court.

Mr. MILLER (Cook). No, I mean in calling the Convention.

Mr. FIFER (McLean). Well, suppose the General Assembly had failed to act, taken preliminary steps looking to the calling of a Convention as required by the provisions of our present Constitution.

Mr. MILLER (Cook). The fact is that in every instance, no matter how the Convention was called, if the document which they framed was presented to the people at a regular election and ratified by a majority of the voters, it has in every instance gone into effect without a single exception. There are 30 instances, as I mentioned, where the Constitution provided for no Constitutional Convention whatsoever, neither did the statutes.

Mr. FIFER (McLean). Then it is your position that the preliminary steps required to be taken by the General Assembly of the State can be waived?

Mr. MILLER (Cook). If you will wait just a moment, I will give you the instances, and then you can understand. In many of these 30 instances where there was no constitutional provision whatsoever for calling a Convention, in many cases the legislature by a mere majority vote called a Convention, and in every instance it has been held by the Supreme Court of the United States and the Supreme Courts of various states that that is not a legislative act, and in some instances the governor has called the Convention, not merely submitted to the people the question whether there should be a Convention, but the governor has called the Convention, and when the document which that Convention framed was submitted and ratified by the people, a majority of the voters, it has gone into effect, and the Supreme Court of the State has said it is valid. In Pennsylvania, contrary to the proceeding laid down by the Constitution as to taking a census of the people as to whether they wanted a Convention, the legislators went out among the people and talked to them during the recess of the legislature and came back and actually called a Convention and that was done and a majority of the people ratified it.

Mr. FIFER (McLean). That does not contravene anything that I said.

Mr. MILLER (Cook). I understood you to say, or to express the opinion, that a Constitution had to be framed in accordance with the provisions of the previous Constitution.

Mr. FIFER (McLean). I never discussed that question for ten words.

Mr. MILLER (Cook). All right. I understood you to say that "we wanted to fix this Constitution so that corner of the State could never frame one."

Mr. FIFER (McLean). I said that, yes.

Mr. MILLER (Cook). Then I think the other is implied.

Mr. SIX (Pike). Do you mean to assert that because of that statement, that the State of Illinois is in danger of having a similar situation any time the majority wishes to raise that question, when we have a referendum in the Constitution of our State as it now is?

Mr. MILLER (Cook). I will let you answer that question yourself when you hear what has been done.

Mr. SIX (Pike). Have you any reason for that? Do you know a single state where they had the referendum in the Constitution, in which the Supreme Court of the State, or of the United States, said that any system of submitting to the electors the question of the regularity of the new Constitution was legal?

Mr. MILLER (Cook). Why, certainly.

Mr. SIX (Pike). Will you cite one Constitution that was so adopted in the face of a Constitutional referendum of the Constitution? I mean such as we have in Illinois.

Mr. MILLER (Cook). Why, certainly. Practically all of the Constitutions are adopted by a referendum.

Mr. SIX (Pike). And any irregularity from the referendum provided by statute will supplant that?

Mr. MILLER (Cook). Not merely by a statute. It has been done by the governor in violation of the terms of the Constitution and it has been held to be legal.

Mr. FIFER (McLean). If a Constitutional Convention to which you refer was called irregularly, I can understand that the irregularity might be waived, but when they met wouldn't they have to meet by representatives who represent districts prescribed by the Constitution?

Mr. MILLER (Cook). Governor, the principle is this, that no one set of men today, whether sitting here or living in Chicago or living on the farms, not even a majority of the people in Illinois today, can tell the majority of people in Illinois 15 years hence or 10 years hence what Constitution they shall have or that they cannot change their Constitution.

Mr. FIFER (McLean). Well, if the Convention was irregularly called, and that it would come not from districts as provided by the present Constitution, representing the constituency as represented by this body here, would that be a legal Constitution? If it was called at all, wouldn't it have to be by delegates representing the people and elected by the people?

Mr. MILLER (Cook). It has been done that way by the legislature without any reference to the Constitution. It has been done that way by the legislature against the plain provisions of the Constitution. It has been done by the governor plainly against the face of the Constitution.

Mr. FIFER (McLean). Can the district representation be ignored as provided in the Constitution?

Mr. MILLER (Cook). Yes.

Mr. FIFER (McLean). I don't think so.

Mr. MILLER (Cook). Anything provided in the Constitution can be ignored, because, as I have read you from the Supreme Courts of several states, including New York, Virginia and Massachusetts, the holding of a Constitutional Convention is not done under the Constitution, but it is done over the Constitution.

Mr. FIFER (McLean). Then your position is that whatever is done here, the majority of the people of this State can get together and make a Constitution and submit it to the people, is that true?

Mr. MILLER (Cook). Unquestionably.

Mr. FIFER (McLean). Then you are in no danger, are you?

Mr. MILLER (Cook). No, sir, not a bit.

Mr. FIFER (McLean). Why can't you then, as soon as this Constitution is submitted and even adopted, if you should get a majority in the General Assembly or just meet, volunteer, go around and drum them up and meet here under the dome of the state house and have a Convention and submit it to the people? Would that be legal? My point is this: As long as the district representation is preserved, if this proposition goes

through as contended by myself and those who are acting with me, you never could get a majority in the assembly.

Mr. MILLER (Cook). No, you never could.

Mr. FIFER (McLean). So it carries out my original proposition.

Mr. MILLER (Cook). No, hardly.

Mr. FIFER (McLean). I am somewhat familiar with this subject.

Mr. MILLER (Cook). I hope you will be more familiar with it when we get through.

Mr. WALL (Pulaski). I think we are probably all acquainted with Constitution by revolution, Constitution by representation and Constitution by constitutional enactment. What I want to ask you is this: In what state or states that have heretofore adopted the referendum system of calling Constitutional Conventions has a Constitutional Convention been called and decided to be a legal Convention, with a referendum vote upon the question of calling a Convention such as we have here in Illinois and have in our present Constitution? What state or states has ignored their own Constitution and set up a different method? Is there any?

Mr. MILLER (Cook). Yes.

Mr. WALL (Pulaski). Name one.

Mr. MILLER (Cook). One is Pennsylvania.

Mr. WALL (Pulaski). Did they have a referendum such as we have to elect Constitutional Conventions, incorporated in their old Constitution?

Mr. MILLER (Cook). No.

Mr. WALL (Pulaski). That is what I am asking. Is there any state?

Mr. MILLER (Cook). Pennsylvania had a provision that was directly violated twice.

Mr. WALL (Pulaski). I am not asking anything about that. I am asking whether there was ever any referendum such as we have ignored by them and any Constitutional Convention called by some other method?

Mr. MILLER (Cook). Yes, there was a Constitution adopted by the people by a referendum which provided a special method and one method only for calling a Constitutional Convention and not for the calling of any other kind.

Mr. WALL (Pulaski). Was that in Rhode Island?

Mr. MILLER (Cook). Pennsylvania was the one I mentioned first.

Mr. FIFER (McLean). What is the use of having a section in a Constitution providing for future amendments to the existing Constitution and the making of a new Constitution? It is a silly farce to put it in there.

Mr. MILLER (Cook). Governor, you can draw your own conclusions from that.

Mr. FIFER (McLean). Then what is the need of haggling over this matter here? You are perfectly safe from the domination of the down State rule in the State as soon as you get a majority up in Chicago, isn't that true?

Mr. MILLER (Cook). Governor, if you want that question answered now rather than later, I will answer it very gladly.

Mr. FIFER (McLean). All right, take your own course.

Mr. MILLER (Cook). I will do it right now very gladly. I will answer your question, if you wish. My preference would be to have the situation which I mentioned. Personally, I would rather see Chicago limited in the senate, and for the reasons I gave, which are sufficient. I would rather see Chicago have unlimited representation in the lower house. If that sort of an arrangement were made, there is no doubt in my mind but that it would last. If this thing goes in and the Constitution framed here with the limitation which you propose is rejected, and there is no reapportionment, or if the Constitution which you propose to enact is adopted, in either event there is no reasonable doubt but that in 10, 15 or 20 years Cook county will have a great majority. The probabilities are, as I see it, that that very thing will be done, a convention will be called in some way, either by the governor, which has been done before, or by those representations who represent the growing majority of the State's vote, as has been done

before, and that in that event Chicago will have a clear majority in both houses and a clear majority in the Supreme Court.

Mr. FIFER (McLean). Then your position is that whatever is done here, whatever section for future amendments to the Constitution or the making of a new Constitution, as soon as you gentlemen in Chicago get a majority you can wriggle out from under anything that is done?

Mr. MILLER (Cook). No, not at all, they cannot wriggle out. They can adopt a Constitution for Illinois lawfully and rightfully, without any wriggling at all.

Mr. FIFER (McLean). I will change the word. I will make it get out from under.

Mr. MILLER (Cook). Yes.

Mr. FIFER (McLean). Then what is the use of consuming time? You haven't got a majority now, you have no right to rule the State because you are not in the majority. Just let this go through quietly and bide your own time and get a majority in Chicago and call a Convention and you know how it shall be done.

Mr. MILLER (Cook). Governor, your answer there means this, and nothing more, that you don't believe in that position, that is all.

Mr. FIFER (McLean). I do not.

Mr. MILLER (Cook). No, and that is all it means, and if you will listen to me, you and some of the others will change your minds.

Mr. FIFER (McLean). As I said before, I am familiar with the case where there was some attempt to call a Constitutional Convention in conformity with the existing Constitution and when they met in pursuance thereof—

Mr. MILLER (Cook). Now, Governor, suppose you make your talk after I get through and I will go right along with this thing.

Mr. KERRICK (McLean). Isn't it true that in the information furnished us by the Reference Bureau that the whole subject is discussed?

Mr. MILLER (Cook). If it was, I did not know it.

Mr. KERRICK (McLean). You did not get it from that source?

Mr. MILLER (Cook). No.

Mr. KERRICK (McLean). Then I will ask you: They all complied with some part of the procedure usually had in getting a Constitution?

Mr. MILLER (Cook). I haven't assumed that you are ignorant of anything that I am saying.

Mr. KERRICK (McLean). I did not say you did.

Mr. MILLER (Cook). Well, then, why talk about the source of the information?

Mr. KERRICK (McLean). My reason was this: I have read what the bureau of information furnished us, and I know about those cases.

Mr. MILLER (Cook). I had not.

Mr. KERRICK (McLean). I want to know about something else that I did not learn that way. I also have a volume written by Mr. Hampden where that was all discussed. So far as I have been informed, there was always something connected with the source, the legislature, the governor or the means provided in the Constitution.

Mr. HAMILL (Cook). Mr. Chairman, point of order. Is the gentleman asking a question or making a speech?

Mr. KERRICK (McLean). Not exactly making a speech. I am trying to find out where this information was contained.

Mr. MILLER (Cook). I would be very glad to have you ask questions. However, I think that I had better finish what I have to say, because I don't care to convince anyone against his will, I am not so fatuous as to think I can do that. My notion is that your interests down the State and the interests of the City of Chicago run parallel.

Mr. FIFER (McLean). I have understood your position and that of your associates on that.

Mr. MILLER (Cook). Governor, you simply are not convinced, and you are trying to ridicule, and that is all there is to it. Now, just save your questions and your ridicule until I get through, and then I will go ahead.

Mr. DUPUY (Cook). Mr. Chairman, point of order. We want to hear Mr. Miller's argument; we are entitled to that. And I object to these interruptions in his behalf. I hope the chair will sustain me in that.

CHAIRMAN SHANAHAN. He is entitled to be heard.

Mr. FIFER (McLean). Mr. Chairman, I was not interrupting the gentleman in any way. He was willing to answer questions and I wanted the information on that. He entered a field that I did not enter at all in my discussion, and he invited the questions that arose, and I tried to interrogate him in a gentlemanly, polite way, and I see no point of order can be made by the gentleman from Cook.

Mr. MILLER (Cook). I take no offense at what the Governor said whatsoever.

Now, I started out by saying that there were 30 instances where the various states had adopted constitutions without any provision therefor for Constitutional Conventions in the Constitution themselves. I have the list of those states if anyone cares to hear them. I do not suppose you do. We will pass to something more interesting.

We first start merely as a matter of history with our Federal Constitution. Our Federal Constitution was adopted in direct conflict with the provisions of the Articles of Confederation, which said: "The articles of this union shall be perpetual, nor shall any alteration at any time hereafter be made in any event unless such alterations be agreed to in the Congress of the United States and be afterwards confirmed by the legislature of every state." The Supreme Court of the United States said that the imposition of the Federal Constitution upon the people of each state was proper, even without the consent of the government of each state, and even though there was nothing in the Constitutions of any of the states warranting it, and that the Constitution if adopted by the people of any of the states was binding even against the will of the state government, and they said it in these words:

"The ordinary rule is that where power is given to do a thing in a particular way, there the affirmative words marking out the particular way prohibit all other ways by implication, so that the particular way is the only way in which the power can be legally executed. The assent of the states in their sovereign capacity is implied in calling a Convention and thus submitting that instrument to the people, but the people were at perfect liberty to accept or reject it and their act was final. It required not the affirmance and could not be negated by the State governments. The Constitution when thus adopted was of complete obligation and bound the State sovereignty. It has been said that the people had already surrendered all their powers to the State sovereignties and had nothing more to give, but, surely the question whether they may resume and modify the powers granted to government does not remain to be settled in this country."

In Delaware was the first instance where a Constitution was submitted and adopted in direct contravention of the terms of the existing Constitution. In that instance the Constitution provided for a five-sevenths vote of the legislature. They could not get it. They called the Constitution by a bare majority vote, and it was submitted and adopted and it became the fundamental law of the land, as every one of the others, about 35 in number altogether, have done, and in every instance the principle which seems to underlie it all is this, that the final ratification by a majority of the people, whatever the Constitution says, who have called the Convention, that final adoption by a majority of the people gives it its validity, because the majority of the people at all times have the right to change their Constitution.

The next was Maryland in 1850. There there was a direct prohibition in the Constitution. The Constitution of Maryland provided that a Constitutional Convention could only be called by a vote of the legislature at two successive sessions. That could not be obtained, and a legislature at one session called the Convention. When submitted, it was adopted by a majority of the people and it went into effect. The next was Delaware in

1851. There the legislature called a Convention in defiance of the Constitution. The Convention submitted the Constitution. It received the votes of a majority of the electors, and it went into effect. Another instance was Pennsylvania. There a Constitution could not be called except by the censors.

Mr. FIFER (McLean). If the chair please, I was not coming back tonight, and Mr. Miller had asked me to come back, that he wanted to discuss this question, and that is why I interrupted. Now, I would like to ask for information. This is a new field for me, and possibly others would be interested. It says a majority of the electors. Was that a majority of the electors that voted at some previous election, or was it simply a majority of the electors voting on the subject?

Mr. MILLER (Cook). The latter, I think, in every instance. The subject that I called Governor Fifer's attention to just as we left was this: We might as well dispose of that very briefly. In his argument he said that the first time—he referred, I think, to Dorr's rebellion in Rhode Island. He said the first time that the country districts question arose was in Rhode Island in 1842. What occurred in Rhode Island in 1842 was this: The charter convention handed down by the King was still in force, it gave the country districts control over the industrial centers in the city, and that almost caused a revolution. The industrial fellows got together voluntarily, spontaneously, elected delegates, held a Constitutional Convention and voted on it and claimed it was adopted, and there would have been armed conflict if Congress, acting through the President, had not threatened to interfere with the Federal troops. That stopped it. But the country districts of that state, prompted by fear, promptly got together and changed their Constitution so that the country districts, the land owners, no longer ran their oligarchy as they had been running it before, and that was prompted by fear, and that is the thing that occurred in that great state in 1842.

Mr. FIFER (McLean). That don't contravene anything I said.

Mr. MILLER (Cook). Well, perhaps not. That was the thing. It was the cities that got control by reason of a numerical superiority from the oligarchy which had had it theretofore, to-wit, the farmers. I haven't got anything against farmers; I am one myself.

The next instance that we have in mind again is Delaware in 1851. Now, Delaware flatly in the face of the Constitution of the State, submitted, called together a Constitutional Convention. The results of that Convention were submitted to the electors. They adopted it, and it went into force, notwithstanding the Constitution. Again the same thing happened in Pennsylvania. In Florida the same thing happened. In Florida the Convention was called by the governor, absolutely no provision in the Constitution. It was in defiance of the Constitution. He did not merely submit the question to the voters as to whether they would have a Convention—and that has always been held to make it beyond any question—but he called the Convention itself. That Convention submitted a Constitution; it was ratified; it went into effect, and when some years later the question arose as to the validity of that Convention, the Supreme Court of that State held it was proper and legal in every respect, and rightful, and there is not a decision to the contrary in the United States except the one decision in Rhode Island.

Again, in 1850, in Indiana, they held a Constitutional Convention in the face of the provisions of the Constitution which said that Conventions could be held only in certain years. They flew in the face of that and held a Constitutional Convention about half way between. The result was ratified by the people and it went into effect. In Michigan in 1835 there was a territory. The territorial government adopted a Constitution, submitted it to the people; it was ratified. They asked for admission. Congress said, "You can come in provided you limit your territory." The state government said, "we will not limit our territory." They could not come in. A Convention was held, as in the case of Rhode Island, by voluntarily appointed delegates from causes voluntarily met. They got together, framed a Constitution, the Constitution was adopted by the people and Congress

recognized it as the Constitution, and the Supreme Court of the United States has said that in case of dispute, where there is any occasion for Congress to act, Congress is the only power that can say which of two governments of a state is the proper government. It was said in the case of *Luther vs. Borden*, which went up from Rhode Island, and the court said, reading a paragraph:

"Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind and authorized the general government to interfere in the domestic concerns of the State, has treated the subject as political in its nature and placed the power in the hands of that department. The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guarantee to every State in the union a republican form of government and shall protect each of them against invasion and on the application of the legislature, or of the executive when the legislature cannot be convened, against domestic violence. Under this article of the Constitution it rests with Congress to decide what government is the established one in a state, for, as the United States guaranteed to each state a republican government, Congress must necessarily decide what government is established in the state before it can determine whether it is republican or not, and if a state court should enter upon the inquiry proposed in this case, and should come to the conclusion that the government under which it acted had been put aside and displaced by a new government, it would cease to be a court and be incapable of pronouncing a judicial decision upon the question it undertook to try. If it decides at all as a court, it necessarily affirms the existence and authority of the government under which it is exercising judicial power."

Congress in that case decided, in the case of Rhode Island; it decided in the case of Michigan; it decided in the case of West Virginia and in some other instances in the union, Congress has been called upon to decide and has decided.

Now, just a few words upon the history, reading now from the author, Roger Sherman on Constitutional Conventions, with which the most of you are familiar, page 15. He is summarizing the cases:

"The whole people in their sovereign capacity, acting through the forms of law at a regular election, may do what they will with their own frame of government, even though that frame of government does not permit such action and even though the frame of government attempts to prohibit such action."

Mr. GREEN (Champaign). Mr. Miller, would you amplify what is meant by "acting under the authority of the law?"

Mr. MILLER (Cook). The form of law is held to be a regular election, that is all.

"Governments derive their powers from the consent of the governed. Therefore, all governments have a right to withdraw their Constitution and to change their governments at will. They can exercise this right either by an authorized procedure, by a lawful though unauthorized act of the whole people or by a spontaneous act, providing that in the case of such spontaneous act it be later ratified by some higher power, such as Congress in the case of a territory, or the people themselves in the case of a state."

In other words, it is held here that Congress could ratify without the vote of a people in a territory. Congress has more than once decided that a government of a state, ratified by the people, though adopted without the forms of law entirely, was the proper government, has recognized it and it has gone into force.

"The people can speak only through their representatives, the voters, and the voters can speak at a regular election. Thus the Massachusetts court recognized the existence of the fundamental principles considered and the existence of a higher authority than that of the Constitution itself."

I have read you extracts from three of the courts of last resorts of three states to the same effect, where they said the Constitution without the forms of law at all, that is, that the people adopted the Constitution not under the old Constitution but above it, and they did it lawfully and

rightfully. There was nothing revolutionary, even though the Convention was held spontaneously, as it has been in several instances. It was not wrongful, it was not revolutionary, it was not illegal. It was in every instance when adopted by the people by a majority vote; it was rightful; it was legal; it was proper.

There was one case which I did not mention. I have not mentioned any of the 30 cases where they adopted a new Constitution when there was no provision for a Constitutional Convention whatsoever. There is another one in Georgia. There were two different conventions held there. The people elected delegates, they did it in the face of the Constitution. The Constitution was adopted and it went into effect. The author then, commenting upon this last mentioned case, says:

"Thus, we come back to the fact that all conventions are valid if called by the people speaking through the electorate at a regular election. This is true regardless of whether the Constitution attempts to prohibit or to authorize them, or is merely silent on the subject. Their validity rests not upon the constitutional provision, nor upon the legislative act, but upon the fundamental sovereignty of the people themselves."

Mr. FIFER (McLean). Mr. Miller, at that point, may I please ask you another question, if it don't interrupt you?

Mr. MILLER (Cook). Certainly, go ahead.

Mr. FIFER (McLean). Would not this proceeding that you speak of, ignoring the Constitution and the people getting together in their original capacity, be revolution?

Mr. MILLER (Cook). No, it has been specifically so decided, Governor.

Mr. FIFER (McLean). Wouldn't it be throwing of existing forms and institutions of government?

Mr. MILLER (Cook). No. It has been held just the contrary, Governor, not by one, but by many Supreme Courts of states. They say it is done rightfully, it is done lawfully, it is done properly. And why? Because, to quote again from the Court of Appeals of New York: "Neither the calling of a convention nor the convention itself is a proceeding under the Constitution. It is over and beyond the Constitution." And again from the Supreme Court of Virginia: "The convention of Virginia had not the shadow of a legal or constitutional form about it. It derived its existence and authority from a higher source, a power which can supersede all law and annul the Constitution itself, namely, the people in their sovereign, unlimited and unlimitable authority and capacity."

Mr. FIFER (McLean). That is revolution.

Mr. MILLER (Cook). No. There is where you differ with the Supreme Court of Massachusetts, the Court of Appeals of New York, the Supreme Court of Virginia, the Supreme Court of Florida, the Supreme Court of North Dakota, the Supreme Court of Indiana, and several other Supreme Courts. You differ with them in calling that revolutionary. That is not revolution. There was not a shadow of force. The courts held there was nothing wrong, there was nothing unlawful. They placed it squarely on the principle that the power, the authority to organize a government implies the power, the authority in the majority to change that government at will.

Mr. WALL (Pulaski). Both the form and system of the government?

Mr. MILLER (Cook). No, it has got to be a republican form of government, of course.

Mr. WALL (Pulaski). Doesn't that authority hold and say that that constitutes revolution?

Mr. MILLER (Cook). No, he does not. He says that a Constitution adopted by a voluntary getting together of a convention without any election of delegates, that it is a peaceful revolution, and has been so-called by some, but not a convention called by one department of the state government, and all of the authorities agree, Judge, that the calling of a convention by a legislature without any provision in the Constitution is not a legislative act. It is simply the voluntary act of one department of the

state government, and the same rule is applied when it is done by the governor.

Mr. WALL (Pulaski). I quite agree with you there where it is called by some state authority, but where simply a voluntary aggregation of people get together, that is clearly a constitution by revolution, and, as this same author says, peaceful revolution. It may be peaceful and may not be.

Mr. MILLER (Cook). This author says it is sometimes so-called, and the man who does call it that—that is probably the one you refer to, is Judge Jamieson in his book. He calls that a constitution by revolution, where the people get together voluntarily, adopt a Constitution and submit it against the forms of law. Jamieson does that. Hoar, as I think I am correct in saying, does not. He takes issue with merely that terminology, absolutely nothing but terminology; that is my understanding. Now, where does this lead us to ?

Mr. FIFER (McLean). A revolution.

Mr. MILLER (Cook). Does it? Again you assert that, Governor, and I have said to you that I thought you differ with every court of last resort in this union that has spoken on the subject. I say this: I say that I am convinced by the reading of these cases and the reading of several authors on that subject, that when that city by the lake—I may be mistaken on this; I often am; the Supreme Court can certify to it—but however wrong my conclusion may be, I venture the assertion that Governor Fifer or any other gentleman who reads the same cases will probably reach the same conclusion, that is my guess.

Mr. FIFER (McLean). Each state officer takes an oath to obey the Constitution, doesn't he?

Mr. MILLER (Cook). We all know that.

Mr. FIFER (McLean). Yes, we all take it; we took it here. Now, if a constitution provided how a Convention might be called and regulated its proceedings, any state officer, Governor or otherwise, wouldn't he violate his oath if he ignored that provision of the Constitution?

Mr. MILLER (Cook). You will have to address that to the Supreme Courts of some of these states that I have mentioned. The Supreme Court of this State could never pass on the question as to whether or not a constitution so adopted, which ousted the Supreme Court, was or was not valid.

Mr. FIFER (McLean). That was not the question. Would not such an officer that called the Convention violate his oath?

Mr. MILLER (Cook). I don't know. I have no information on that subject, and I am not arguing a case, I am not arguing the reasons of it. I am simply citing you to the authorities along that line. I have not said a single word giving my conclusions, my reasons, or trying to persuade you that these cases are right. I am simply giving you the cases that have been decided; I am simply referring to the authorities, I am referring you to the United States Supreme Court, to all of these other cases in the Supreme Courts of the various states, and to the fact that about 35 of the states of this union have adopted constitutions in a way I have mentioned, and in every instance when adopted by a majority of the people, they have gone into force, and where Congress has been called upon to act, they have said where a constitution has been adopted by a majority of the people we will recognize that government as the existing government, and the Supreme Court of the United States has said that act of Congress is final.

Now, those are the authorities. I am not defending them, I am not fighting them, I am giving them to you for what they are worth. They sound to me as if they were worth something. They seem to me that if your interest and ours, since we both are neighbors to the millions of people in Chicago, since you as well as we have got to get along with the people in Chicago, because we are a part of them, they are a part of us, we are all a part of the same state government, so we will always remain, you have got to put up with their infirmities the same as they have got to put up with your infirmities, you have got to take them as they are. We can not get away from each other. Your interests are ours, and I personally believe that your interests and ours can be served and would be served and pro-

moted by some action at this convention which would meet with the approval not only of the people down State, but with a substantial majority of the people in Cook county, and I personally believe that if that thing would happen and that sort of a settlement were made, it would be a settlement which would last; and I personally believe that if that kind of a settlement is not made in all probability whatever settlement is made will not last. If my conclusion there is proper, if my forecast of facts is right, it is a matter for your concern as well as ours. You are just as much concerned in it as we. It is not a matter which should be dismissed lightly with a sneer that, "Oh, you are all right anyhow." That is not the way people get together. That is not the way people settle their differences. That is not the way questions are settled and settled right—never.

Now just a few more words. Something has been said here, gentlemen, about the Anti-Saloon League. I want to say just a word myself, and if you will deal with perfect frankness with us, you will say and you will agree I know it that the Anti-Saloon League is exercising a great influence in this matter, not that it is in authority over anybody in this Convention, but this is the way that is done; you have been trying to convince every member from Chicago that there is a large percentage of the people of Cook county that want to be limited in both houses of the legislature. I have that confidence in the fairness of every man of you down State that leads me to believe that unless you thought that a large percentage of the people of Cook county favored the limitation in both houses you would not try to put it through; you have been convinced of that, and you have been convinced of it by the Anti-Saloon League. Many of you think, and some of you have told me so, not all of you of course—and I want to say this, the Anti-Saloon League in my opinion is doing a very great work, they have gotten through a Federal amendment; I was not altogether for it, but now that is the law of the land, you know and I know that it is of the utmost importance that it be enforced or it will lead to the worst condition of corruption that this State has ever known—no one can deny that. The Anti-Saloon League is engaged in that work, and they are doing I believe a magnificent work, they are not always right. They were not right for instance when they wrote me "our check up on the candidates indicate you stood favorable to the limitation of both houses, and because of that fact we recommended you to our people for election" and the gentlemen who sit here in this hall, and the ones who signed this thing had admitted to me since that they had no business using any of those words to me. They are not always right, but they are doing a great work. With all respect to them in this matter, the delegates in this Convention, from Chicago, I think to a man believe they are wrong when they say that a large percentage of the people in Chicago favor their scheme of double limitation. I will tell you who they are; they are the same preachers, and the same professors who stood with Wilson on his League of *Notions* and thought they were going to carry this State overwhelmingly on that issue. They are the people that these men are referring to. Why these people told me that the State meant to control Chicago because the State is right on all great moral issues and Chicago is wrong. Think of it! Who is it that cleared up the race track gambling surrounding Chicago? Was it the people of the State? It was the citizens of Chicago. Who was it that cleared up the redlight district in Chicago? Was it the people of the State? Oh, no, it was the lowbrows in Chicago. Who was it closed up the saloons on Sunday in Chicago, was it the people of the State? No, it was the lowbrows of Chicago, the lowbrow politicians of Chicago.

Mr. MIGHEL (Kane). Thompson?

Mr. MILLER (Cook). Yes, Thompson. I am not a Thompson man but it was Thompson; and the people of Chicago have got to look after their own affairs, they cannot have a guardian or conservator appointed for them. Conditions are not what they should be there; and they are not all saints down State, either. Conditions in Chicago are improved, and I hope to God they will improve in some places down State. I understand, and I have been told some of the conditions I mentioned of Chicago still exist there.

The people of Chicago will clean up the liquor business and will relieve the corruption, and yet in my humble opinion they will do it before it is done in the balance of the State. The people of Chicago will suppress crime. They will get a better system of electing judges; they will have better judges and they will have better courts; they will have the ideas, just as the people down State will have ideas for better municipal government. They are going to do those things, but they are not going to do it through the help of the people down State; they have got to take care of their own affairs; they are grown up and there is no one else will do it for them, and they will do the job.

Mr. IARUSSI (Cook). As a delegate from Cook county it would be an injustice to my constituents if I did not speak a few words in their behalf and especially at this time. No doubt every delegate here was elected by the people of the State of Illinois, and sent here to serve them equally and justly but, gentlemen, allow me to tell you that as yet I fail to see any justification. I believe that some of our honorable and capable delegates from Cook county have presented their issues and their honest defense, and for that reason I shall not take much of your time, but to express my opinion, my personal opinion of this situation I will say that I think you have come to a conclusion and it is like picturing this Convention as Great Britain on one side and the small power of Ireland on the other; Great Britain has all of the power, and despite the cry of sympathizers from all over the world, whether right or wrong they dominate Ireland, have done so for many years and will continue to do so without fear. In making this statement, gentlemen, I do not desire to criticize any individuals, but I do criticize the action of this Convention should a proposal of this kind be adopted. I believe, gentlemen, that we ought to be fair. We ought to get together. We ought to all work together, and try and try again to get together, so that when the time comes we may all go out and procure the adoption of the Constitution. We must not forget, gentlemen, that we will be the fathers of this Convention, and we want the record so that our children will enjoy this Convention, and our children's children perhaps; and I hope and trust that before this proposal is put to a vote that some fair-minded gentleman may move to its modification. I thank you, gentlemen.

Mr. SUTHERLAND (Cook). To save time of the Convention my distinguished colleague from the 13th district has asked me to say a word for both of us against the proposal that is being urged. Our record was made when the matter was last discussed in June. However, in what I say now, and from now on, I shall speak my own convictions, although they may not in some detail agree with his. Like Mr. Miller, I came to this Convention believing on principle in the limitation of Chicago in one branch of the General Assembly. On June 18th, 1787, in discussing a similar subject in the Federal Constitutional Convention, which framed the Federal Constitution the great Alexander Hamilton said "in every community where industry is encouraged there will be a division of it into the few and the many, hence separate interests will arise; give all the power to the many they will oppress the few; give all the power to the few they will oppress the many, both therefore ought to have the power that each may defend itself against the other."

It has seemed to me, Mr. Chairman, that the down State might well demand that Chicago should be limited so that in the day when it may have a majority of the entire population of the State, but located in a small center, geographically, that it should never dominate over the diverse interests of the entire State. That seems to me to be fair and I came here prepared and am prepared to go back to the people of my district having voted for a proposition such as that, but, Mr. Chairman, will it be fair if the day ever comes when the City of Chicago has a majority of the population of the State of Illinois that the greater geographical portion of State, yet being in a minority as to the people, shall dominate and control our interests, altogether, so that we shall never have an equal voice with the minority in State questions? I do not believe, Mr. Chairman, that any man can say that that is fair. Mr. Chairman, I don't know certainly, as I do

not suppose any delegate in the Convention knows certainly tonight, that we shall want to go back to our district and recommend the adoption of the new Constitution*but, Mr. Chairman, I hope that we shall want to do that thing. I have entertained that hope ever since we entered on this work. I still have that hope. But, Mr. Chairman, our friends from down-State are going to make it very difficult for us to go back and get any sort of a hearing on such a plea, if they put into the Constitution a provision that no matter how great the City of Chicago becomes, no matter how large a majority it may have as to population it shall never have an equal voice in the affairs of State government. We can explain to our fellow citizens to some extent, to a large extent, the fairness of the proposition which will give the majority by population control in one house, and the greater geographical portion of the State a majority—the decisive—control in the other, but we cannot surrender to a minority and explain to our fellow citizens why we have done it, control in both. Now, Mr. Chairman, I am told by some of my fellow delegates from down State this, "Why, don't you know that there is a large element in the City of Chicago that is demanding a limitation in both branches? Don't you receive any letters from them? We get letters from them." I say, yes, I have some letters from them. I had a letter the other day from the Chicago Law and Order League, stating that on October 18th they had a joint meeting of the directors of that league and the Hyde Park Protective Association and that a unanimous resolution was adopted saying that the new Constitution should provide for a substantial limitation of the representation of Cook county in both houses of the General Assembly. On the back of the letter head I found a list of the directors and looking at them I found the name of a gentleman that I know very well, William F. Mulvihill, Assistant Corporation Counsel, and Associate Editor of the Republican, so I went to my colleague, Mr. Wolff, who is affiliated with the same political faction of that party as Mr. Mulvihill, and I expressed surprise that his faction should be taking that position with reference to the interest of the people of Chicago and he was as surprised as I, and wired to Mr. Mulvihill for an explanation, and here is the telegram which he has handed me—which he received from Mr. Mulvihill today: "Oscar Wolff, Constitutional Convention, Springfield, Illinois, your telegram just received; I am utterly opposed to limitation of Cook county representation in either branch of the General Assembly as undemocratic and a violation of the principles of representative government. I was not present at meeting of Law and Order League, did not authorize the use of my name as favoring the alleged resolution favoring limitations. William F. Mulvihill."

Now, Mr. Chairman, I think it is entirely proper that the gentlemen representing the Anti-Saloon League and other organizations that have been mentioned today should be present here lobbying with the members of the Convention; I think perhaps it is unfortunate that the representatives of many other schools of thought, bankers, manufacturers, labor leaders and others have not been with us, more persistently pulling and hauling, in order that we might have a closer touch with the common thought of the day regarding the work we are engaged in. I have no quarrel with anyone who comes before a legislative body exercising the due right of petition that is guaranteed by the Constitution, but it seems to me, Mr. Chairman, that we cannot build a Constitution for the purpose of making easy, or especially favoring, any one brand of legislation no matter how much we may happen to be in sympathy with that brand of legislation, and the fact is that I am in general sympathy and accord with the program of the Anti-Saloon League. Neither, Mr. Chairman, can we build a Constitution because we don't like the results of any single political election or primary, we must not take the stand that what has happened to our personal likes must be forever limited and made impossible. We have got to build this Constitution for the purpose of serving the people a long period of years, if it is to be built at all, and we cannot build it on specific instances or from specific points of view. And, Mr. Chairman, it seems to me that while these gentlemen are making a sincere appeal for what they feel to be right,

while they are attempting to stir up in Chicago a limitation in both branches, which they feel is right—sincerely, I have no doubt—they are going to have a very difficult time in getting before the voters the argument that it is fair, that a majority of the State of Illinois should ever be controlled by the minority. Nor do I think the members of the church going public in the City of Chicago will take kindly to the idea that Chicago as a moral force is not to be trusted, and that they have more influence with strangers one hundred miles down State than they have with their neighbors across the river. That is not a compliment to the forces that make for moral good in Chicago. And it seems to me and it did seem to me all day that these gentlemen from down State in their desire to protect not only themselves from us in Chicago, but to protect us, as they so kindly say, from ourselves, are wishing upon us a very difficult job, and a thankless one.

Mr. SIX (Pike). I wish again to ask the question of Delegate Miller as to whether or not in the thirty-five decisions he read, there is a single one in which the Constitution of that State provided for a popular vote to assemble a Convention for the purpose of revising or making a new Constitution which had a provision expressly requiring the submission of the work of the Convention to the people.

Mr. MILLER (Cook). Yes.

Mr. SIX (Pike). You have not named such a state. What is it?

Mr. MILLER (Cook). One is Pennsylvania and another is Delaware.

Mr. SIX (Pike). I deny that either Pennsylvania or Delaware at the time of the decision you cite had any such dual proposition as I have stated, which is that a convention to be called must be submitted to the people, and second that the work of the convention must be submitted to the people.

Mr. MILLER (Cook). What is your authority?

Mr. SIX (Pike). I will wait until I have spoken to give you the opportunity of proving what you have asserted.

Mr. MILLER (Cook). I will add the states, if you please of Indiana, Maryland, Florida and the others I cannot think of right now.

Mr. SIX (Pike). I deny that any of those states come within the proposition as stated by myself.

Mr. MILLER (Cook). Now when you deny it, will you give your authority?

Mr. SIX (Pike). I will be glad to later.

Mr. MILLER (Cook). Well, I will be glad to hear it.

Mr. SIX (Pike). Gentlemen, there are 19 states in this union which have the requirements which I have just stated. Those states are—and let me suggest also that many of these provisions are within recent date having been made within the last twenty-five or thirty-five years—and I think we are getting to find that Delegate Miller refers to decisions that are more than fifty years of age, these 19 states are Arizona, California, Colorado, Idaho, Illinois, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Idaho, Washington, West Virginia and Wyoming. Of those two we have cited by Mr. Miller, decisions from New York and Michigan. Let me call your attention to the fact that the constitutions of those two states have provisions regarding the Constitutional Convention for the purpose of amendment, but the legislature has nothing to do with the making of or calling of the Constitutional Convention, except the periodical convention that is called every twenty years, therefore Delegate Miller may be right when he states that this proposition for a Constitutional Convention may be called by any branch of the government, therefore he does not bring his argument within the proposition which I have stated. I stated my proposition to assure the down State delegates that there is not at this time, and there will be no time in the future when the great State of Illinois and its inhabitants may fear any such condition as Delegate Miller suggested might prevail. If this is adopted, gentlemen, I assure you that nothing short of revolution will change the Constitution which is adopted by the referendum vote of the people of this State, whether that referendum vote was taken in 1870 or whether it was taken on the result of the work of this Convention. Now,

I rose to speak on only two small points; the first one is that the proposition submitted by the gentlemen from down State is neither new or novel, and second that the county unit system of government and representation is fair and just to the little counties and to the great county by the lake. Let me say that the precedent cited by Judge Cutting this morning with regard to the Federal system, and with regard to the New York variation in 1894, is the historical precedent for the proposal as stated, but let me further suggest that because of that fact you are not to say that our system of representation prior to that and insofar as that has not been modified is absolutely fair. There has been for more than fifty years a controversy on the part of groups of individuals and minority parties and others who felt that they were not properly represented to have the unit changed. Now if there is complaint within the unit on account of unfair possibilities of representation, if we need at this time equal right to representation, that there is not any reason why we cannot change the unit, if within the unit there is positive illustrations of that, which are to be found in more than five separate proposals—before I mention them let me say it is uniformly agreed that the purpose of a Constitution is to protect the minority against the majority, but that gentleman always presume the minority to be weaker. The purpose of a Constitution is just as great in the matter of protecting the weak against the strong, even though that weak person or set of persons be in the majority. At this time down State happens to have the majority; if it is shown in this little argument of mine that the majority at the present time is weaker than the minority and in the future will continue to grow weaker, and the immediate minority in the future will continue to grow stronger, then the proposal here has met a condition which you have not thought of. Now I spoke about the dissatisfaction within the unit, the illustration of that is in the effort to have given units under a system by which you may have first and second choice of candidates, known as the Buckland system, that is in force in such cities as Cleveland, and it is possible to select a man that did not receive the most votes for first choice, but in the ultimate analysis has the most votes to be counted under that system. Then we have the second system of limited votes by which three candidates are selected to run for the office. Then we have the next system of cumulative voting, and we tried it in our State fifty years ago. That is because we felt that the minority parties were not represented. Then we have proportionate representation which is of recent origin. That is for the same purpose, to protect the rights of the minority parties. I am not going into the details of those for the purpose of showing you that there is some ground for this proposal, but to show you that it is not new nor is it novel.

Now is there any condition about the city by the lake which makes it possible for a minority to have such force and power that the Constitution should restrict a minority in favor of a majority? I need not go into detail on that but I am going to mention a few things which have been mentioned on this floor; in population it has forty per cent of the population of the State; the resources are unlimited; its markets afford facilities for and contract with every other part of the State; its financial system and financing of enterprises down State are enormous. There is quick communication both by travel and word of mouth. There is quick dissemination of information to all parts, not only of the city but equally able to influence the most remote parts of the State, added to that is the enormous local appropriations which are made in local government by which and from which powerful political organizations are built up to enforce or at least call attention to the political advantages or disadvantages affecting that city or that county. In addition you have the few leaders in charge of the various institutions; those men exerting enormous influence down State. Now these things are all admitted. The very fundamental things I have mentioned here were admitted in the various arguments. For instance you have said that you could not have or needed home rule; one said because of certain conditions, and another group from Chicago said we must not have municipal home rule because of those conditions, at any rate

it merely shows that there is a condition there which makes for enormous power. That is also admitted in the matter of the appointment of judges rather than the election of judges. The same argument was made in regard to the short ballot and its necessity. One man came down here during the Highway discussion and said he conducted the Liberty Loan Drive for thirty-three different nationalities, and he said that what he said to those people was believed and followed, showing that instead of lack of representation in large sections of your city it may be possible that you are over-represented in State affairs, because a few men represent so many thousand people. I am not going to go further except to emphasize in closing that the proposal is neither new nor novel, and that the community idea is fair, that the community unit system is fair. You have 62 votes in the House and 19 in the Senate and every county down State will have one, not a single community in the State without representation. The greatest community in the State have eighty-one in the assembly with the powerful influences which I have mentioned to argue for them and to convince the separate units down State to go along with them on any proposition that is for the good of the State. Now I will take one more minute for Delegate Miller's answer to the citation of a State having the requirements which I have stated.

Mr. MILLER (Cook). You denied my statement and I asked you for your authority and you have not produced it, you don't know anything about it; you haven't a single thing on which your statement is now made.

Mr. SIX (Pike). I asked the gentleman to cite a single decision in which the Constitution at the time of the decision required that a popular vote should be had, the necessity of a popular vote to assemble the Convention for the purpose of making a new Constitution, and second the Constitution of that state expressly requiring the submission of the work of the Convention to the people; that is the proposition I made, and he has not yet submitted a single state.

Mr. MILLER (Cook). If the gentleman requires a further statement I will say this, in each one of the states I have mentioned the Constitution provided for a certain way of calling the Convention, in each one of those instances that was wholly and absolutely disregarded, and in each instance the Constitution provided that when the new Constitution was framed by the Convention it should be submitted and it did not go into effect until it was ratified by the people. In each instance the Constitution was submitted and was ratified by the people and went into effect. And in no instance has a Constitution of that kind been declared to be invalid or failed to be recognized by the courts; when courts have been called on to pass on it, for instance, in every instance the basis on which the courts have ruled is the final submission of the Constitution to the people and the vote upon the Constitution, and they said it did not make any difference what the old Constitution said about a method of changing or amending or substituting. Therefore the question I understand you to ask now did not cut any figure whatsoever, they said that the Constitution was good and the Convention was held not under the old Constitution but above it; the authorities all said that.

Mr. SIX (Pike). I don't deny that there is opportunity for revolution.

Mr. MILLER (Cook). Nobody said anything about a revolution.

Mr. SIX (Pike). But there is not a single case among those cited that comes within the requirements which I made. I made that assertion to assure the down State delegates of the fact that Illinois will never see such a condition of raising up and submitting to the populace any proposal for a Constitution, except by this means. Now if they do that and the down State lies quietly by until the United States can say this is the government of the State and we will recognize it, I admit that if the people submit to anything they can change their form of government, but that is revolution. Now he wants to know my authority—if he gets his question in shape so I can answer it I will—I have no desire to evade—the information that I have on this matter is from the Reference Bureau publications, and I have made no assertion that I did not examine the facts on before I came here;

on this floor I have never made an assertion that I have not been able to in my opinion answer upon authority. I do not do my work that way. The authority I have cited on the proposal from Ohio and New York, or Michigan and New York is on page 1919 of the bulletins of the Reference Bureau, article—or bulletin three, amending the article to the Constitution, in paragraph eight, "Constitutions; whose provisions regarding Constitutional Conventions are made completely independent of legislative action, New York and Michigan." Now have I made the statement that you think I made? I challenge you to call my attention to it, and if I made it through error I will correct the record.

Mr. MILLER (Cook). I think I owe the gentleman an apology for the rather heated statement I made. Now, I want to ask him this—have you any other authority than you just cited?

Mr. SIX (Pike). For what point?

Mr. MILLER (Cook). That any one of these I mentioned required the submission of the Constitution.

Mr. SIX (Pike). I named nineteen states from the same authority, states expressly requiring a popular vote for calling the Convention and also requiring the submission of the Constitution to a popular vote.

Mr. MILLER (Cook). I asked you if you cited all of the authority you had on the proposition that the states I mention did not require a submission to a popular vote?

Mr. SIX (Pike). No.

Mr. MILLER (Cook). What else then?

Mr. SIX (Pike). The proposition I stated to you is based upon the synopsis and my recollection.

Mr. MILLER (Cook). Ah.

Mr. SIX (Pike). From the cases in the collection.

Mr. MILLER (Cook). I will give you time to produce it.

Mr. SIX (Pike). I don't know what you challenge.

Mr. MILLER (Cook). I challenge you to prove the statement you made denying my statement.

Mr. SIX (Pike). What is it? I want to know what he asks me before I go further; what are the states?

Mr. MILLER (Cook). I will give you plenty of time and opportunity to answer it; I don't think you ever will.

Mr. DUPUY (Cook). If the Constitution of 1870 which is now in force had contained a provision that it should not be changed in 75 years, what would be the effect of that provision, would it be binding or not, could it be changed within that period of time?

Mr. SIX (Pike). I think that would not be binding.

Mr. HULL (Cook). The purpose of these assurances given to the delegates of the Convention of the incorrectness of Mr. Miller's statement is this, I judge, that if the down State people can get a strangle hold on Cook county then it won't make any difference how large the population is in Chicago or Cook county they have got the strangle hold forever, is that the idea?

Mr. SIX (Pike). That is not the purpose but that is the fact.

Mr. DEYOUNG (Cook). Any contribution that I might make to the debates here will not have the slightest effect on those who have listened all day to these arguments, but it reminds me of the address of Lord Edmund Burke, in a speech on American Taxation in the House of Commons, more than a century ago, "Invention is exhausted; reason is fatigued, experience has given judgment, but obstinacy is not yet conquered," which is probably appropriate to this discussion. I come from Cook county, I do not come from the City of Chicago, and I have wondered in the discussion that was presented today, as well as the discussions that were presented a few months since, why it was in the area in Cook county, seven hundred miles in extent, more than the area of two average counties in Illinois, and considerably more than the area within a number of counties in the State now insisting on representation here why it should be practically disfranchised by the pending proposal, as well as section six which you adopted yester-

day, it not only emphasizes the present disqualification of Cook county's representation that is now entitled to under the census of the present year, for 25 senators instead of 19, you have already determined to continue the restriction on that county to 19, and add to your own portion of the State something to which you are not entitled clearly—that is the one step that has already been done. You have emphasized the discrimination, which has obtained in fact, and you have sought by Constitution making not only to emphasize temporarily but throughout the period of time during which the proposed Constitution, if it should be ratified shall be the fundamental law of Illinois. I have always understood that legislative representation is defensible only upon the theory that there shall be no favor bestowed to anyone or no right denied to anyone which is not common to all; and if the representative theory of government is at all defensible it is defensible only on the theory that the majority must rule. Let us examine if you will just briefly what the pending section seven, with its alleged county representation involves, we have heard a great deal of the rule of the majority and the protection of minorities. I have been utterly unable to discern either aspect or either requirement in section 7 of the pending proposal. There are, as asserted this morning, eighty-three counties of the 102 in our commonwealth with a population of less than fifty thousand. Fifty thousand is the minimum requirement, not only fifty thousand but a major portion above the first fifty thousand is necessary before a county can get its second representative, and it makes no difference under the present proposal what the population of a number of these counties may be; it is a well known fact that there are counties in this State, a considerable number in proportion to the whole whose population today is less than it was a half century ago. There are counties in the State of Illinois that since the last reapportionment have steadily declined in population, and it is sought here, at the expense of a very large part of the people of Illinois to fix permanently beyond any change not only during the period of time during which the new Constitution may be effective, but because of its limitations, to prevent for ever any reapportionment upon a just and equitable basis, to the people of Illinois wherever they may be situated, if they are at all residents of populous centers. Nineteen to thirty-two is the present condition in the Senate and fifty-seven as against 96 in the House. You have already determined, as I have observed, that in the senate your representation shall be increased by six, when clearly, on every theory that has happened in Constitution making in the 102 years, nearly of our existence such theory is subversive of the practice as well as the theory of the past. What do you propose to do in the house? You clothe it under the theory of county representation, and again you strike a blow not only at Cook county but to a number of other counties in Illinois, at present Cook county has 57 representatives; she is entitled to fifteen more, today in this hall; what do you do? You give to Cook county graciously five more, but when you do that you add to your representation for the rest of Illinois not five, no you multiply it by more than three and you give to the State outside of Cook county 16 more. What is the necessity? Is a house of 172 members more efficient? Will its deliberations be superior, will they give them greater wisdom than is now true of your 153 representations? Is that the reason? Oh, no, not at all. That is not the purpose. Why create these additional places except to emphasize the discrimination against the County of Cook which is already emphasized by the fact that the representatives in this branch, as well as in the other branch of the assembly, the majority of whom come not from Cook county have refused to do to the people of that county for the last twenty years that degree of justice that was ordained a half century ago.

I shall not take the time to review the difference in population of a number of counties, which I took the pains to set down here, because of the lateness of the hour. But just let us examine a few of these things; there have been many appeals here to a sense of justice and fairness. I hope and wish to heaven that no other thing, not another guide would govern the justice of this body than that justice and fairness which has

been so constantly invoked today and other days of our deliberations. Let us apply a test and see whether we contend for something of that sort. What is the situation now? The population of our State has grown with leaps and bounds; there is scarcely a region on the whole globe that is more favored than Illinois, not only her material wealth, but her progress in population; her intelligence and wealth are comparable to any region of like or greater or even less size anywhere on the globe; what do you propose to do you say outside of Cook county for each senator—you have already determined it—a population of only 90,000 is necessary, but in the County of Cook because it is the County of Cook, not ninety thousand but seventy thousand more are necessary for each senator because he comes from Cook county. That is the requirement that is found; that the condition of his representation, of his obtaining a seat in the senate of Illinois.

What do you do in the matter of representation here? Oh, we have heard it said, we don't limit you absolutely in the house, by the progress which has been yours in the past, it is possible in three-quarters of a century hence, it is possible you might obtain actual control in the House of Representatives. Oh, what a boon that is to the man who is today and for the next two or three generations will be a citizen not only of the County of Cook but of the State of Illinois. Here we are sitting for the fifth time in the history of Illinois, with scarcely more than a century having passed over her citizenship, and seventy years hence we are told, by the rapid progress in population, we may possibly attain an actual majority in the House of Representatives. Gentlemen we are not children, we are capable of discerning some actualities. We need not have anything of that sort held out to us. We believe, and we would have been very much more impressed if you had said to us boldly and absolutely our purpose is to unqualifiedly check you or check the population of your county not only in the Senate but we will take mighty good care in the House of Representatives during any period for which not only this Constitution could be enforced but even its successor, we will take extreme care and caution that the actual majority even in one branch, the popular branch of the General Assembly shall never be accomplished. Is there in this proposal any justice to Cook county, alone? Oh, no, not at all. Let us examine it with reference to some of the other counties in the State of Illinois. We have heard a great deal about the virtue, about the justice and about the necessity of county representation, I want to call your attention to the injustice not only to Cook county but to some of the other counties of Illinois. What do we find to be the fact? There are four counties in this State other than Cook county, that by the last census have obtained a population of over one hundred thousand; taking three of those counties, the population is less than 125,000 but above 100,000; these three counties, with this population as I recollect it of nearly 360,000 will be entitled under this proposal to six representatives, yet there are twenty-three counties in this State the total population of which is just a little in the aggregate, a little over two hundred thousand, somewhat less than half of these three counties I have mentioned and they will have 23 votes in the House of Representatives of the State of Illinois against six for three counties having nearly twice as great a population. That is equality in this year of Grace, 1920, in representative government, and when you include the second county of Illinois, the County of St. Clair, which has nearly three representatives you approach one-half a million population with nine representatives for the four most populous counties excluding the County of Cook against 23 coming from as many counties that have only half the population, aye scarcely half the population of the first four counties I have named. That is the county representation that is invoked here in the name of justice, as representative government.

What do the fathers think about the county, as such? We have heard the county extolled in this modern day; we have heard its cause championed as it was never championed before in the history of Illinois. The fathers who gathered here in 1848 had some very definite and pronounced ideas about the organization of counties, and if you will turn to the 7th

article of the Constitution of 1848 you will find that in view of the experience which had obtained in the new State under the first Constitution they found it necessary to require that after that no county could be organized the area of which would be less than four hundred square miles; nor was it permitted under that Constitution to take from a county such a portion of the territory so that what remained would be less than four hundred square miles. In other words the framers of the Constitution of that day said never again in Illinois will a county be divided or a new county created where one or both or either of them will have an area of less than four hundred square miles. Why was this true? Because under the first thirty years under our first Constitution they found that counties were created by leaps and bounds, 29 counties were created, practically 29 during the first thirty years of our existence, as a State—the number ought to be reduced by two or three that were created during the territorial days—but there were 29 counties, suffice it to say up to 1848 that had an area of less than four hundred square miles. Some of them, as small as Putnam only had 177 miles; Pulaski, the county from which Judge Wall comes, had only 190 miles; Hardin county, 185 miles, an area erected into a county, and in 1848 they said it should not be permitted any more. And what did the fathers of 1870 say? They said precisely the same thing, with the additional judgment of what they thought of creating these centers around which all of the community interest centers, which we have heard so much about, and without which the population of that county could not exist, unless those county centers were created, but the fathers of 1848 did not think it was necessary. The fathers of 1870 did not think so either, because they continued the same requirement in the Constitution, and even before the necessity of limiting Cook county came to them they levied on the present article for county government exactly the same requirement. Their solicitude for the counties was not so great as the present discussion has made necessary, and they prohibited the organization of counties in the future the same as in the past. Let me say to you from 1848 to 1870 only three counties were created, all counties of considerable area and considerable population now, one is Kankakee. Since the Constitution of 1870 not a single county has been created in this State, and it is only now when the requirements of this discussion have made it convenient to laud and extol the interest, the community interest, the center around which everything evolves in the county that we must come to the aid of these centers. Not only the industry, not only the social activity, industrial progress, but also probably the center around which the moral standard of the community must be preserved. Let us look at it from above; we have in this State as observed before, 83 counties in the way of population less than fifty thousand; we have 52 counties in Illinois, or just over half, with a population of less than twenty-five thousand, forty counties in the State of Illinois with a population of less than 20,000; twenty-three with a population of less than 15,000, and nine counties with a population of less than 10,000. Why, two or three townships in Cook county in the aggregate exceed the whole population of those nine counties of which you speak.

I shall not take any more time to determine or dwell on these statistics, because at best they are only tiresome, but it emphasizes the gross inequality which it seems to me the present proposal would necessarily impose in the fundamental law of Illinois. Oh, yes, these county seats are the centers to which and from which every thing radiates. It is necessarily true in the County of Kane, because there the center of everything is necessarily in Geneva, and Elgin and Aurora are of no consequence at all. It is the same thing in the County of LaSalle where Ottawa is the center of everything and Streator and the other places count for nothing in the prosperity of that county. The same thing is necessarily true in the County of Coles where Charleston alone attracts all the activity, and is the sponsor for everything for which the County of Coles can give promise. Likewise the same thing must be necessarily true in the County of Whiteside where Morrison must necessarily exclude all other places. And in the County of St. Clair where Belleville is not known and East St. Louis was never heard

of, and cuts no figure in the county or the prosperity of Illinois. I might continue to cite you to examples where there are centers in the county other than the county seats, which do make up something of the county's activities and importance, but according to the discussion today they are of no consequence at all.

The gentleman from Pike, to whom I have always listened with much interest, for when the enthusiasm of his youth, added to his ability, shall somewhat with larger experience be tempered, he may probably take a little larger view than that which he laid down just a few minutes ago, but he told us the precedents for the present proposal are the Federal Constitution and the New York Constitution of 1894. It will be presumption on my part, literally, to go into the limitation which you find in the Constitution of New York of 1894. It was demonstrated this morning, in a fashion which would not be possible for me, by Judge Cutting. It had its birth in the exigencies of a political party, and apart from all that there is a requirement in the Constitution of New York which you do not propose, and which you will take very good care not to have incorporated in the Constitution of the State of Illinois, that there must, necessarily, apart from legislative fiat, and will, be a ratification of the Constitution of New York at certain periods, but says he a constitution is only inaugurated to protect the minority.

Why in the ancient days they started out to find an honest man, with a lantern, but you could not find any protection for the minority in section 7 if you added a microscope as well to the lantern, because it is not discernible. Protection of the minority! Why let us look at these things, if the English language means anything—the gentleman observed that certain men came here saying that they wanted home rule, and in the same breath he said that certain gentlemen from Chicago said they did not want home rule, and this division of opinion, and I will use his own words, makes for enormous power in that city. We heard reiterated today that the city is always unanimous in its opinion, and although it be a minority by mere force of its numbers, by the superability of its members in the House and Senate it was always able to dominate the majority. Those of us who have had a little experience in this House are of contrary opinion. And I don't know when any and all of the members from Chicago in my brief career here agreed on certain things. I know certainly they did not on some things, which the aldermen of the city said that they needed absolutely. There was a wide difference of opinion which showed that some of them did a little thinking of their own. There was neither that consistency, harmony or united view which we have had so often proclaimed here today. But, said the gentleman from Lawrence, for whose zeal in his efforts here, as well as his great ability I have the most profound respect, he said yet it is not at all a question of numbers, it is a question of protecting the people. I suppose you will protect the people by protecting a small minority of them? Who are the people? Just a part, or all of them? Is a part greater than the whole? Numbers, says he with eloquence scarcely comparable in this Convention, are not at all controlling. Then the distinguished gentleman from Pulaski makes his contribution in support of county representation, who, says he, are the people? Are the people of my county too small, are they too poor, is my county too small to be represented? Not at all, absolutely not. There is nobody here from the County of Cook would be heard to say that any county, in Illinois, should be denied representation according to its population, which is the basis of representation in this place or elsewhere. Says he, there will be erected in the legislative halls a banner for each county, there is the banner for the County of Cook with the great metropolis within its confines, 19 seated under its banner, in the senate and 56 or 57 in the house. And think of it, numbers, says this great distinguished statesman, numbers are of no consequence in legislative halls. When you erect a banner for the County of Cook if it does not have the number required by the Constitution, 19 are just as effective as 25. If that be true why are all the gentlemen so solicitous to increase their portion from 32 to 38? Why so solicitous to in-

crease all your members, which according to the population you clearly are not entitled to, but he says many banners would have to be erected in this legislative hall without any member seated under it, as though the county can only be represented by a member from that county seated under it. In the legislative hall, numbers don't matter, and every man, woman and child and interest should be represented. I suppose the right to representation is by county representation alone? Population is of no consequence whatever and a county that expresses population with half of the population, with a tenth of the population, if you will, of certain townships in the County of Cook have to have a representative here because every man and woman and child and every interest must be represented, but if they happen to live close to Lake Michigan, because the population is a little more congested, there every man, woman and child can be adequately represented although the number of its citizens may be infinitely greater.

We are told it is against the principles of representative government, for any unit to be deprived of representation. What do you mean by unit? If you carry this out logically your county line will not suffice, as observed today, by one of the members of this body, why usually the most populous city in the county will send its representative to this hall, other cities may be under, or not represented at all, if you will. If every county and every community must be represented then you cannot possibly stop short of representing at least every village and every city in the State of Illinois, because that is the only thing which will represent every community, or every unit. But, observed the gentleman from Pulaski, as well as my distinguished associate, the gentleman from Champaign, whose long service in the senate of this State has been an honor to the district from which he comes, he, too, says, why we have the township on the one hand, and the township irrespective of its population up to a certain point, sends its supervisor to the Board of Supervisors of the county, and we have there the smallest unit in State administration, and then in the Congress itself, we likewise have the representation by units. Let us just examine that for a moment. And then he draws the conclusion, which is more specious than sound, because in the township we have this representation and have it as he contends, although it is not the fact, in the State, it must necessarily be the proper thing in the hall of the legislature, in a State government. Now first of all there are 17 counties in this State that are not organized into townships at all, so the comparison fails at that point, but even if every one of the 102 counties in Illinois were under township organization the parallel would not hold, because the town board is not a legislative body, it is a body that exercises simply certain delegated powers, beyond which it cannot go. It has not the power of legislation; its powers are extremely few and extremely limited, and of little consequence. What do you say about the National Congress? Does anyone mean to contend that every state there is represented irrespective of population? Not all. When the fathers framed that document in 1787 there were thirteen colonies, that could only be brought within that union by their consent, and it required the ratification by a certain number, as you know, before the Constitution became effective, and not one of them was below the population, the minimum population required for admission into the union. What has been the story since? You turn to Indiana, just for a few instances, in 1816 the minimum requirement was forty thousand, practically the congressional ratio of that day, and what was it in 1818 when Illinois was admitted, wasn't the admission of Illinois delayed because she did not have the population required? The minimum population of forty thousand? Absolutely. It was not a question of admitting the County of Hardin, or the County of Putnam, or the County of Ogle with 7500, with a receding population. If you are going to speak of the sisterhood of the states, here was a minimum requirement complied with by the original thirteen colonies, and admission after that in every case except the one in the far west, which was the exception and proved the rule rather than the contrary, in every

other case the requirement was complied with. What do we have here? Oh, they turn to New York and Pennsylvania but there is not that disparity of population in any county in New York, between the two extremes, which we have here in Illinois, from 7500 to three million. The comparison does not hold. Then again is there not a vast difference between a sovereign state sending its representations to a legislative body and a mere local subdivision of the state organized not as a community center, but organized merely for the convenience of the state, and the carrying out of state processes of government, that is all the county seat is. The county is not, as I know and all lawyers know, not a corporate municipality that has certain public as well as corporate power, because it exercises those corporate powers as corporate liabilities, no such liability. A county is organized solely for the purpose of carrying out the processes of the state which cannot be conveniently exercised over a large area from a single seat of government. I hope that we discover that there is a wide difference between the position of the county as against the state and that of the state as against the nation.

Then again my distinguished associate says: The men of Chicago have come down here in one breath and said "we want home rule", and others coming in from the same city said "no, we want your protection because taxation will run wild in Chicago unless we have a salutary restraint, which the rest of the State will give to us." Let us examine it for just a moment, whatever your views may be about home rule, one way or the other. There are a great many people who live in the City of Chicago and a great many who live just close to that city who are more or less acquainted with its government and some of its activities. They are not in complete accord with reference to the demands for home rule, but whatever the difference of opinion or dissensions among those gentlemen may be, it seems to me to be quite beyond the question. It would be just as unsafe to grant to the other municipalities of Illinois complete dominion in the matter of taxation as it would to the City of Chicago. It would be absolutely fatal, in my judgment, to give to the City of Chicago or any other city complete unlimited power in the way of taxation, because I do not believe that even a municipal corporation ought to be altogether the judge of its own cause. The citizens of Peoria, East St. Louis, of this city, and of every other city and village in the State likewise need the restraint of State legislation against excess local taxes, and taxation which would necessarily be levied if there were no power by State law imposed. It makes no difference even if the majority of the members of the House and Senate come from Cook county, because they are not the same men that exercise these powers, these municipal powers, there would be that restraint which would be imposed by a State law, which is necessary. It will not do to say that because there is a demand on the part of some for home rule that that proves completely that Chicago does not want and does not need in certain respects limitations imposed by State authorities, just as the State outside of Chicago needs cooperation by her senators and her officers for the same purpose, exactly. Ah, but say these gentlemen, "As evidence of our complete justice and fairness that we want to treat the people of Cook County with that fairness to which they are entitled, with complete fairness, with no discrimination against them at all," they say to us "We are submitting an alternative proposal, a proposal which you can put into the Constitution so you will get a representation in the House according to population." But the same breath which uttered or pretended to utter those assurances of fairness, withheld it by a single question and a single answer. The gentleman from Will, the chairman of the sub-committee, had hardly insisted upon this fairness, with some fairness, (out of the feelings of his heart, and that of his associates, members of this body outside of the County of Cook had said, "We will give to the people of Cook county the chance to get this equal representation.") when I asked him, "Will you substitute the alternative proposal in the Constitution itself, and make the exchange," and he said, "No, we want the preference."

Mr. BARR (Will). I said that there was one.

Mr. DEYOUNG (Cook). Yes, and you said you would not make the exchange.

Mr. BARR (Will). Yes.

Mr. DEYOUNG (Cook). Very well, if it was a matter of complete indifference, if there was no advantage by putting it in the main instrument, then there ought not to have been any hesitancy about giving to the people of Cook county that full and equal opportunity to have this equal and proportionate representation, which we are assured we could get. So says the gentleman from Champaign, speaking with the same degree of fairness. He says, "We will give you the opportunity of submitting to the people of Cook county—we will give you the opportunity of putting this into the Constitution if you can." Yes, it is like holding a glass of water about a block away from a thirsty man. It gives him a great deal of comfort, indeed. Then this same gentleman from Champaign, having been a member of the legislative body of this State in the House and Senate for almost a generation, with a period of observation I believe unequaled by any other member of that body, with a long experience, which I said before gave credit to him as well as the constituency which sent him here, said, "Chicago in my long career in this hall has never been treated unfairly." No, it has never been treated unfairly! No, if Chicago had been treated fairly, if the mandate of the Constitution had been followed in this very hall in the year 1911, Chicago would have had more representatives and more senators in this body; there would have been more delegates in this body today from there if Chicago and Cook county had been treated fairly; there would have been a different congressional apportionment, and instead of two congressmen at large coming from the State they would have come from the County of Cook.

There would have been a different apportionment with reference to the judicial system in the County of Cook, especially so far as the court of last resort is concerned. Yes, let us have something more than assurances, let us have a demonstration of the fact that there has been this fairness. I need not multiply instances. If time permitted, they could be multiplied of things denied to the County of Cook to which she is honestly and justly entitled.

And, the gentleman from Pulaski again observed, addressing the members from Cook county, "Whatever you will want, you will always get. Instead of you, the men from Cook county, imploring us to receive justice, it is incumbent upon us to implore you in order to get that justice." Why, if the superiority of the members of this Convention, as the superiority of members in the Senate and House of Illinois, unless these votes are negligible, then I fail to see why the members from the State outside of Cook county should implore the members, (why the necessity) for the justice to which they are entitled? Surely, no member of the House or Senate, however brief or long his career, ever says anything of that sort.

Expediency, says the same distinguished gentleman, is the basis of fundamental principles of government. I suppose that when the Minute Men of Lexington and Concord got together in the year 1776, I suppose that was in the interest of expediency. I suppose that when Lincoln said, in his second inaugural address, that if it took every man of the North and every last dollar they possessed to preserve the Union of the United States and the Constitution, when a great political party said in the interests of expediency the war was a failure, I suppose that, too, was something in the interest of expediency. I shall dwell upon that a little later.

The venerable ex-Governor of this State, than whom there is no greater character in this body, says the business of Chicago is commercial, while that of the country is diversified, and Chicago represents, as he says, a single industry, and shall this single industry control and dominate the State? It seems to me the mere statement shows its fallacy and does not require an answer at all. When Chicago, he observes, is united, even though not a majority, and down State with a majority, even Chicago's minority dominates the majority in the halls of legislation of Illinois. I would like to have a single instance shown to us where that is true. Then

again he says, "the pending proposal is no bar to the City of Chicago if she grows large enough." I think it was Edmund Burke, in a speech on the conciliation with America, the friend of America, and one of the powers in the House of Commons, said: "They have the votes, they have the power to vote it down, showing that they were short-sighted. They claim a complete legal power, not only to enact, but to assert the Stamp Act!" They asserted that fact, and it was Edmund Burke, the great friend of America, who said that there were some men who were perfectly willing to argue into slavery the men of the American colonies. When the venerable ex-Governor tells me that the limitations in the present sections 6 and 7 as proposed are not a bar to the City of Chicago, I am utterly unable to understand the language of that proposal.

Sometimes the only reason that has been absolutely asserted here as the requirement for these limitations in both the House and Senate, is not because of the diversified population. In one breath we are told that everything in Chicago represents a single industry. In the next we are told that there is such a great diversity of nationalities and of interests that they do not fear that. They do not even fear its population. Their character, I have heard them observe here, is like ours. We have nothing to fear about that, but the only ground for this limitation is because the population is dense, not because its ideas or ideals or its demands in the way of governmental processes are at all different, but just because the territory that they occupy is not quite so great as the rest of the State. The mere fact then—we have it reduced down to acres, because by your own statement you have divorced it from everything else. You have said, and you have repeated that you have not the fear of that population, but just because it occupies a limited area, that is your fear and that is why there ought to be limitations.

But suppose we admit, for the sake of argument, that it is not that alone, as you profess, but that you fear Chicago because you may think that from that quarter will emanate those demands that are subversive of sound government. Suppose we get that far. Do you require anything more than a limitation? Your pending proposal is not drawn to obtain limitation, not at all. Your pending proposal absolutely dominates during the life of the new Constitution what will in a few years hence undoubtedly be an actual majority of the population of Illinois. It is not limitation that your pending proposal inaugurates. It is domination, absolutely, and we have had county representation invoked as the new modern invention, the new ideal in representative government, so that the voice of everybody might be heard.

Ah, yes, if you sought to conceive something in the way of domination, I grant your proposal is a work of art, it is a work of genius, indeed. I scarcely could conceive how it is possible to have made a limitation more effective. To check the great metropolis is one thing; you have accomplished that in the Senate. To dominate it is quite another, and that is what you seek to do. Let me ask you, let us invoke the same degree of fairness of which you have spoken. The present Constitution provides, and the sections of the legislative article that you have already adopted for the proposed Constitution also provide, that two-thirds of the membership of either house may expel a member. Let me ask you, is it fair to lodge in any portion of the State the absolute power not only to expel one senator from Chicago, but all of the senators that come from that city and that county? Some of you gentlemen have indulged in possibilities. The venerable ex-Governor did today. He said, "I don't say it is probable, but it is possible." Here is the absolute legal power to disfranchise altogether, at least in the Senate, every member that comes from Cook county, in your proposal as it is drawn. I need not speak of the requirement of two-thirds vote in the case of emergency acts. I need not speak of some other requirements by which a two-thirds vote in the Senate absolutely gives you complete control and domination, irrespective of the population of Cook county.

Gentlemen, you talk about representative government. My very slight acquaintance, my extremely limited reading in works on representative government, or at least upon the American form of government, has always led me to believe that at least a very important element in our framework was certain checks and balances. We never sought, and certainly never a minority in any Constitution of which I know, to give them absolute dominating power over the majority. We have reiterated, and we have repeated over and over again in Constitutions, National and State, the theory and practice of checks and balances. The present proposal is diametrically opposed not only to that theory, but to that practice and to that rule. Ah, they say, but community representation is a thing which with the dawn of this new day will bring that exact equality of representation which we need in Illinois. Community representation is not a new thing. Community, borough, representation in the past has been indicted by every careful student of the subject, and through the centuries past the contest against that sort of representation, by communities, regardless of population—even representation according to wealth, not numbers, not men, women and children, as the gentleman from Pulaski spoke, has been the destruction, or, at least, the impairment of parliamentary representation, and through the long years across the sea, the contest went on until finally, in 1885, in the great Reform Act, there was an approximation to representation according to population. The humble subject in England's voice could be heard then as never before or since that time, and we, the inheritors of the institution of a thousand years of blood and treasure, we who ought to profit by the lessons of the past, we seek to recur now to something which in the place of its birth was discarded, and here the men in Illinois, in 1920, seek to destroy that representation according to population at least in the popular branch of the General Assembly, and they say the county, even if it has a population very much less than certain townships and other counties of the State, such a county can necessarily be heard over and above populations infinitely greater.

No, let us profit by the experience of the past. If we do not, we shall, as Edmund Burke says, "We shall always be beginners." We certainly must not be in the State of Illinois. We have heard the new doctrine here, and that is that representation and taxation have little, if anything, to do with each other. A strange doctrine, indeed, to be heard in an American forum, and stranger still to be heard in the great commonwealth of Illinois. Representation and taxation, it has been asserted on more than one occasion the last two or three days, have nothing to do with one another. Shall we close our eyes from 1215 down to the present day, when the twenty-five barons were constituted in the interest of the people against the tyrant King John to protect their interest against illegal levies? Shall we ignore the great example of John Hampden, who spent a considerable part of a great fortune to resist the illegal exaction of 20 shillings? As the same great statesman observed, "Would the payment of 20 shillings destroy Mr. Hampden's fortune? No, but the payment of 20 shillings on the principle it was demanded would have made him a slave."

Taxation and representation have nothing to do with one another, a new doctrine, a doctrine quite necessary to bolster up, to support and to make effective, if possible, section 7 of the present proposal. I have already called your attention to the fact that Cook county pays nearly one-half of the general taxes for the support of the State government. I have told you that she pays over two-thirds of all the inheritance taxes levied in this mighty State. I have also told you that when it comes to the public works of Illinois, to the 4800 miles of permanent highways that you are going to construct in this great State in the near future, we are going to pay nearly one-half, although by no possible means can we get one-twenty-fifth of the total mileage to be constructed. We complain not, but we do not believe that when we make these contributions, we should be disfranchised. No, not at all. We believe that in the future we shall have a right to be heard. We believe that free men in Illinois will give us that right. Ah, taxation and representation have nothing to do with one another. The men of Boston in

1775 that threw more than 300 chests of tea into Boston Harbor, they thought that taxation and representation have something to do with one another.

I shall not dwell any longer upon that situation. What would the men of Illinois assert today if it were proposed to limit the representation of Illinois in the houses of Congress because Illinois had a great metropolis in its borders, and because Illinois was going to be one of the most populated States in the Union? From Cairo to Galena alike, outside of the City of Chicago, as well as in the city, the voice of protest would distinctly and justly be raised, but here, because the City of Chicago is a great city, because she has prospered, because she has grown almost beyond the realms of imagination, for that reason Chicago is now to be disfranchised. Men are still living who saw the light when Chicago was first organized as a city. If a pioneer of that day could have turned aside the curtain of time, and called his infant son to his knee, and could have said to him, "My son, if four score and more years should be yours, and when your hair shall be silver with age, then this little community that is now scarcely discernible upon the horizon will be the second metropolis in this mighty Nation, it will be the fourth city in all the globe, a city which during the days of the Civil War made its contribution, which in a few years afterwards was reduced to ashes and then rebuilt to become one of the great metropolises of the Nation and of the world, the center of art, of industry, of commerce and education, and a city that made its contributions in peace and war alike," no one would have believed it. Truth, indeed, has become stranger than fiction, but because of this progress, because of all that she has done, she now in this modern day is to be penalized. Her contributions are justly exacted from her, she ought to make a greater contribution than she could possibly receive from the State, because her area is limited, but when her people responded only in recent years in making a contribution not only to domestic concerns, but in order to preserve the liberties of the world, alike with the men of Illinois, it seems to me that it is hardly a place for any limitation.

We have had two experiences this week, gentlemen. By arguments that seemed to me specious, indeed, we were limited in the membership upon the Supreme Court of Illinois. In the seventh Supreme Judicial district, with today an actual population greater than all the other six districts combined, we are not permitted to have more than one member on our court of last resort, simply because Chicago was situated within that district, and now in the popular house of the General Assembly we are again to have this limitation. It seems to me that of all places where we ought to set aside any narrow sectional interests it is in a Constitutional Convention. If there is any opportunity, if there is any time or any place in the scheme of American government where the highest patriotism, the complete absence of partisanship should have its sway, that opportunity, that place, is here and now. We ought to take a complete survey of the interests of the whole State, with its varied industries and interests and population, and here we ought to write a fundamental law and provide for another half century; for, indeed, if we confine ourselves to fundamentals there will not be necessary even a change a half century hence. Why is it that the Federal Constitution has been effective for nearly a century and a half over so wide an area and so great a population? Because it dealt with fundamentals, which are as enduring as the ages indeed. Here and now is our opportunity. Legislation for specific or for particular instances is bad and vicious, in fact it never succeeds, it must be repealed at short intervals, but to write a Constitution for a sectional interest, for a particular exigency, is infinitely worse. It ought to have no place in these councils. This of all places is a place where we ought to take this great survey of these common interests of the great State of Illinois. Lowell says that democracy is merely the letting in of light and air. If every voice can be heard, I have no fear for the commonwealth.

I cannot refrain, in closing, from insisting just again that a provision of this character, which is destructive of that for which all of us stood and those who have gone before us, at least in the upper branch of the General

Assembly, is completely destructive of the theory of government which is necessarily American. Turn back to the Pilgrim, to the Puritan and the Huguenot, who came across a sea three thousand miles distant to a bleak and barren shore, there to found the institutions of civilization. As the venerable Senator from Massachusetts said, "The next generation pushed into the interior and founded courts and colleges and schools and churches. The next generation stood by the side of England to humble the power of France. Then came the next generation, the generation of the colonial day, which said the power to govern is derived by the consent of the governed, and proclaimed it to all the world. They made good that declaration upon the battlefields of a long and bloody Revolutionary War. Then the men who solved the problems of peace, they wrote into the immortal instrument of 1787 the principles which we here invoke. Next came the generation that said to all the world the American seamen shall sail to the uttermost ends of the earth with the same complete safety and freedom that we have insured for the American citizen at home. Then came the generation that found it necessary to strike the shackles from the black man, and in the preservation of a Constitution and in the strengthening of the Union made every slave a free man. There came the generation of a less dramatic day that paid the debt, that cleared the forests and extended the homes from ocean to ocean. In our own day, almost, within the memory of young men now living, we extended the same freedom, not confining it to our own shores, but to foreign isles and to a distant people. Later still we made another contribution, we hesitated not. The whole history of America, as the whole history of Illinois, is one not of selfishness. It is one of magnanimity. Shall we now turn back the curtain? Shall we now turn our backs upon all of this progress and all of this that we have demonstrated to the world?

No. True and better counsels will still prevail. Illinois, that has always lifted her head rightly among the patriotic men of the Nation, has always stood on the side of freedom, has always stood for a complete force in government, Illinois will not turn her back upon her past, she will not be unmindful of Nathaniel Pope and Lovejoy and Lincoln. She remembers her great characters, her contribution to the State and the Nation. Illinois, better counsels will prevail here and this limitation may be temporarily imposed, gentlemen, but it cannot succeed. (Applause.)

Mr. MILLER (Cook). Mr. Chairman, question of privilege. I want to say to the gentleman from Pike that I find I have with me the data concerning two of the five States which I mentioned, concerning which he mistakenly disputed my statement, and I will read them: "The Delaware Constitution of 1831 provided that no Constitutional Convention should be called except by authority of the people, and that the only way to obtain this authority would be to take a vote on the third Tuesday of May of any year and obtain the affirmative vote of a majority of all the citizens of the State having a right to vote for representative. Acting under this provision the General Assembly of 1851 passed an act to take the vote of the people. At the election a majority of the votes cast were in favor of the election, but the number was not sufficient to constitute a majority. Nevertheless, the legislature declared that the question had carried and passed another act calling a convention."

This is taken from Jamieson on Constitutions, page 209. One more, following the data here. I have only the three. I will get the others.

"Similarly, with respect to the Georgia convention, the Constitution then in force authorized a convention upon the petition of a majority of the voters of the majority of the counties. The legislature disregarded this provision and appointed a convention to draft a new Constitution. The people elected delegates to a convention in the fall of the year, which modified the Constitution prepared by the first convention, and submitted it in 1889."

Mr. GREEN (Champaign). Mr. Chairman, I promise you that I will not attempt to discuss this matter in the same vein that has characterized the proceedings of this day. It has been suggested that there seems to be a

misapprehension on the part of our good friends from Cook as to the real motives which prompted the presentation of these proposals in this form and as to the ultimate object which we all tried to accomplish and how it came about, and at the same time to explain perhaps a little more in detail why we feel it is fair.

Now, any scheme of selecting representatives to the two houses of the General Assembly is bound to have some infirmities. There isn't any good accomplished by wasting a lot of eloquence in condemnation of any particular plan, because none could be offered but that great things could be said in defense of somebody that was not being treated as everybody thought was absolutely fair. There are certain fundamental things with which we must start. Limitation of the General Assembly is a condition which is a foregone conclusion in this Constitutional Convention. It has been manifest from the beginning—the Convention never would have been born but with the idea prevalent in the minds of a majority of the people who voted on the question that there would be limitation. So that the only question which seems proper to settle fairly is how should that limitation be imposed, and by the fairest plan that may be suggested?

Now, gentlemen from Cook county, you have not appreciated our problem, and you have not helped us any to work it out. There have been different proposals, different plans presented. They may be divided into three. First, that the legislature be limited in one house. Second, that it be limited in both houses, and the first is naturally divided into two parts, whether the limitation, if in one house, be in the House or in the Senate. Now, realizing that we have a problem on that, we have in obedience to the mandate with which we came to this Convention, to work out a plan of limitation that involved one of those three things, we have had some job, too; and finally, by reason of the fact—whatever is said now is said with the utmost respect for your position and with the utmost kindness towards the attitude you have taken—but with the obstinate solid bulwark which the delegates from Cook county presented, denying any effort at limitation, it was necessary that there be agreement among the rest of us, and it forced, as a matter of condition, that the delegates from down State should in common conference agree upon some plan.

It may be interesting to you to know some of the things which we confronted, and the purpose in what I have to say is to try, if I possibly can, to disabuse your minds of what I think is a fallacious theory, that you cannot go back to your constituency with the plan we present and ask them to support this Constitution. And at the outset, let me say, in the first place, and I promise not to say anything more personal, but because there has been personal reflection made towards me I felt I am justified. The Anti-Saloon League did all it could to keep me from coming to this Convention. It circulated my district and told my people down there that I was not the proper man to come here, so I don't believe any of you men who know me will believe that they have any yoke around my neck. This is all I am going to say about that matter.

Now, then, in the first place you object because the majority, or the limitation, rather, in the Senate is 19 to 38. Here is the reason for it. An alternative plan is proposed to be submitted here, and if the alternative plan prevails and there is no limitation in the House, every man from down State is in accord that a ratio of 19 out of 51 would not be a real limitation, because there would be but seven votes to be converted, or in case of any absences less than that when a quorum was present, to be converted to really make the domination complete. I am not going in at all to the question of whether or not it is wise to limit Cook county, because that has been so well covered, but you will have to agree that if there is no limitation in the House, that a limitation of 19 out of 51 is not effective. Necessarily, therefore, we are confronted with the proposition of presenting a plan with reference to the limitation in the House upon which our people could agree. We got no help from you, let us keep that in mind now, and in all this chastisement we have, let us remember that we did not have the good fortune of the benefit of your cooperation in working out this plan.

Well, one plan that was suggested was an arbitrary number in the House and an absolute limitation. Here is what was the matter with that in the minds of some of the delegates. If there was an arbitrary limitation, it could not be anything but a limitation. It could not be construed as anything but a limitation, and it could not apply to anybody but Cook county. So some of us thought that we ought to exercise a little of the element of the Golden Rule, and that we ought to be willing to take to ourselves some of the same effects and results which you sustain, and we thought also that instead of an arbitrary number that if upon a theory of representation a plan could be devised which did not use the word "limitation," which did not in so many words and as an absolute direct statement to Cook county say "that you shall never have only so many representatives," that we would say to all the counties in the State that we will adopt this plan of selecting representatives to the lower house that will satisfy all of us, and then you are on exactly the same plane with her, and if you are doing that, you cannot complain that we are unfair toward you or doing something toward you that we should not ourselves be willing to bear.

There are some peculiar situations and some interesting results, and it is really amusing when you think of all this oratory that has been spilled, when you say that we have perpetrated this fraud against Cook county. In the nineteenth congressional district you might be interested to know that in that district there is Coles county, with 35,000 people, without a representative in the General Assembly from either party, and that in that same district, the little County of Douglas, with 19,000 people, has a representative in the House of Representatives, elected this year, and that the little County of Clark, with 21,000 people, has the other. You might be interested to know that Shelby county, with 29,000 people in that congressional district, has no representative in the lower house—and, by the way, one of these counties has no representative in either house. Champaign county has two; Macon county has two; Moultrie but one, and Pyatt one.

Now, in this congressional district, in this proposal, Macon county loses one of its two representatives, and Champaign county loses one of its two representatives, and when we go back to our constituents we will never have to say to them that you are not represented because you only have one member in the lower house. That will be fair enough when it is presented to them, and somehow we have the picture in our minds like this, that if perchance in the campaign to adopt this Constitution we are addressing an audience of large magnitude present to listen to why they should vote for this Constitution or against it, if we would say to them, "By the proposals which were adopted by this Convention, by which if the Constitution prevails, as the proposition in the main body of the document, you will have but one representative, yet we guarantee to Pyatt county and to Moultrie county that they will have one representative from their county, and believing that it was your wish that in this plan of erecting the House of Representatives, you wanted Pyatt county and Moultrie county to be represented, we voted for a proposal that divides it among us," my judgment is that that audience will applaud that sentiment, and if you will approach in the same spirit your Cook county friends that we approach those within Champaign and Macon county, I have that respect for the fairness of those people that they will say, "If by this plan of representation you have guaranteed representation to each county, and we have powers upon the same ratio as everybody else, you have done the fair thing." Now, that is the way I feel about it, and that is the way we all felt about it. This county plan, therefore, we have had presented, and our friends from down State who had suffered long without representatives in the House or in the Senate, said that they felt that it was right, that they had a right to be represented, and we felt that was an argument that would enable you to explain to your constituency that there has not been any outrage committed against you, and we believe it yet.

If there is a population in Illinois that will not respect the fairness of the same plan and method and the same consequences of limitation that every other county in the State gets, it is the strongest argument that can be made why a limitation is right, because it is necessary in all these things,

if some injustice be done, that it be so distributed that all counties in the State will feel it alike and will suffer under the same situation.

Now, we went farther on that subject. Maybe a majority of the people of Illinois do not believe that both houses of the General Assembly should be limited, and especially since we are debating this thing with the representatives of only one county in the State, and they have not presented us their idea of the way the House of Representatives should be made, a certain plan which provides for a house of 153 members divided on population, that seemed to reflect the judgment of that county as to the particular method of making up the house—we will submit that proposition as an alternative, and if it receives a majority of the votes cast at the election, then it will be substituted for the other.

And, gentlemen from Cook county, the proposition for county representation never would have been brought in by this committee from down State except it had been provided that the voters of Illinois, including Cook county, should have the opportunity to vote on this other plan upon an equal basis and equal opportunity. Now, you have objected that we lay aside the alternative plan and put the other in the Constitution. Just analyze that a minute. We are doing a lot of things here besides making general assemblies. We have got a lot of things in the Constitution that we think are good things. Before I leave that, let me say we had among our own ranks many men who did not believe in county representation, and there are many of us who when we go out before the people with this matter will support the alternative proposition and advise people to vote yes on it, and it does not reflect an absolutely solid front that every man from down State means that he intends to support only that plan before the people, but it means that it is a plan which could be agreed to, and also agree to submit that other proposition, and were it not for the respect I have and the feeling I have of the fairness of the county representation plan—and I am not committed either way on it yet—but if the alternative plan was to eliminate all limitation in the Senate, I say to you that personally I would support it, and I have my mind made up now about it, but I don't know when it comes to defeating county representation that I would support an alternative plan, and in fairness ought to say to both sides that I do not feel that way, but we are now facing a problem of getting this into the Constitution.

We have done a good many things in this Convention that are right besides propositions for the General Assembly. We want it adopted as to the other matters. Even if the substitute proposal is adopted, there are many good things in this Constitution. That is the illuminating argument from the delegate from Cook, Mr. Miller, about your ability to overturn it makes it easier at any rate to say that if that be wrong, it can clearly be righted, but we want the Constitution adopted. Now, it is necessary that you people in Chicago should recognize this fact, and this is why the proposition for county representation ought to go into the body of the document and not the alternative. We have no great organization down State that already threatens to beat this Constitution. We have no great organized press down State that has started its propaganda to beat this Constitution. We have a few people here and there that perhaps have expressed themselves in favor, but you in Chicago have an organized newspaper organization which has announced in its columns that it intends to defeat this Constitution, and you have other organizations which need not be named, which have announced their intention to do that thing. Now, wouldn't it be rather ridiculous for us to put into the Constitution a proposition which would invite them to vote "no" on the Constitution so they could vote "no" on a separate proposal? Really now, gentlemen, just getting down to a matter of practical politics, in educating the people of Cook county to vote for this Constitution as a document, and they being educated to vote "yes" for everything that is presented, that would make your task easier, because if instead of the county representation plan you have the alternative plan in the Constitution, you would then have the task of inviting your people to vote "no" on one question and "yes" on the other. There is no answer to that, that is your situation. And you know that it makes a lot

of difference in educating the electorate—it even does down in the country, and I know it does in Chicago—in educating the public not to vote “yes” on some things, and on which to vote “no.” And it is a matter of my own experience that if you have got to go educating the electorate, “you will vote ‘yes’ on this and ‘no’ on the other,” you will never get that free expression, but that if you are really going to believe in the rest of the Constitution, and in order to do so you go out to your electorate and ask them to vote “yes” on the Constitution and “yes” on the substitute proposal, and if it receives a majority of the votes cast at the election then it should prevail over the substitute, even though it does not receive as a matter of votes, as many votes as the Constitution, and that it should be printed on the same ballot, and in looking over the Committee on Schedule, we found one of your own members chairman of the committee, and we felt that it was rather up to you to see if there was any better method than that which has been presented by which you can get a fair vote on it, and that you ought to get that opportunity.

Now, then, if that is true, limitation is a condition, this proposition of county representation, one of which appealed to the great majority of the down State people, and these large counties are taking the same result that you are, then it seems to me that there has not been any argument advanced how our needs or our tasks have been made any easier.

Some figures: 52 counties in the state have a population of less than 25,000. Now, Cook county will have 62 representatives in the lower house. In all fairness, is there any more reason why, if indeed you have a large population, and then a larger ratio than these small counties and perhaps it is altogether unfair—and for the purpose of argument let us admit it now, that there is a large representation required—is it right to deny all these 52 counties, which never could amount to the majority, to deny to them any opportunity for representation as the county unit?

Then there are 31 counties with more than 25,000 and less than 50,000, and most of them run 36 to 49 thousand. There are just two or three that run under 35,000 and above 25,000.

Now then, here was a situation that we put into this proposal that we want to tell you about so that you will believe we were fair. In the county which my colleague and I represent there are 56,000 people. In order that we did not increase our representative above one—and in a number of other counties, there are eight between 50,000 and 75,000 people—we said we will require for the second representative a major fraction of 50,000, so that it will require a county of 75,000 for two representatives. Therefore, we have Champaign county with 56,000 people, and 6,000 of them more without representation in proportion than anybody in Cook county, because you only lose your ratio once, and you have 62 representatives. We lose it once with one representative. You have one for every 50,000 people and we do not, and these counties with 74,000 have only one for the 74,000 and 24,000 people, if you are going to just adhere to the line of population. And it proves how impossible it is to make any ironclad absolutely fair plan, but don't you think that with that situation it is just about as fair a plan as could be worked out, and that it is not a limitation at all? So far as the House is concerned, it is simply a method of representing the various communities in the State upon a population basis.

Mr. CARLSTROM (Mercer). Mr. Chairman, I desire to waive making a talk at this time.

Mr. DUPUY (Cook). Mr. Chairman, I desire to follow the example of Captain Carlstrom. Everything that could be said in the way of argument has been said. I think there is no appeal that I could make that would have any effect. The hour is too late to undertake to argue it over, and I am very glad to follow his lead.

Mr. KUNDE (Cook). Mr. Chairman, I will do just the same as Captain Carlstrom and Mr. Dupuy. I am ready to vote on the question.

Mr. HAMILL (Cook). Mr. Chairman and gentlemen of the committee: The hour is very late, we have been in session a long time, and I should like, if I could, to spare you the need of listening to another talk. Dur-

ing the many months that we have been together I have had occasion to speak to you a good many times, but on no occasion have I occupied your attention for more than a few minutes at a time. Tonight, notwithstanding the fact that it is late, and notwithstanding the fact that it has been said that all that can be said upon the subject under debate has been said, I still feel so strongly upon this matter that I cannot refrain from developing my views at some length. I trust in view of the fact that I have in the past refrained from occupying your time for more than a few minutes you will be patient with me and charitable to me.

No man can be very sure just to what extent his views are colored by his own interests, his upbringing, his environment, his surroundings and to what extent his views are determined by pure principles. I was born in Cook county. I have lived there all my life. I have the natural affections of men; I feel the attachment to the home town, and probably my sympathies are aroused, as yours are, for your home towns, and yet I have tried in approaching this question to divest myself as completely as I could of those natural sympathies and to attack the question before us upon principle. In what I have to say I shall try to avoid any invidious comparisons. I shall try to frame my remarks so that you will feel that I am sincere when I say that I am trying to discuss the questions presented upon principle.

At the risk of possibly covering some of the ground that has been touched on before, I wish to begin with a few comments upon the history of representative government and the views that have been expressed upon it by men recognized in their time as leaders of all. The problem of how to select representatives, of the basis of true representative government has been long a subject of dispute. As we were informed only a few days ago by our venerable and much beloved ex-Governor, the beginning of representative government since the Norman conquest was when the king called the burgesses together to vote supplies. The burgesses naturally came from those centers of population, and so began the system of the building up of parliament from the borough. Now, we know that the English constitution has been a matter of evolution. The English people have allowed their institutions to grow naturally. They have not been made at any one time out of whole cloth, as we sometimes have tried in this country, and so parliament went on for centuries, beginning with the simple calling of the burgesses together for some business, for some five or six hundred years; until in the eighteenth century it was discovered that parliament was not right. It had come to a point where parliament was controlled by small communities which did not represent the majority of the people.

So as early as 1766, while the colonies in this country were still colonies of the mother country, the elder Pitt said of them: "Before the end of the century, either the parliament will reform itself from within or be reformed with a vengeance from without." In the debates of January, 1766, in the House he said of the borough representation, "It is the rotten part of our constitution. It cannot continue the century. If it does not drop, it must be amputated."

Just to indicate to you the disastrous results upon the English government of the borough system, in order to carry out the preliminaries of the Peace of Paris in December of 1762, an office was publicly opened at the treasury for the bribery of members of parliament and the sum of 25,000 pounds was afterwards stated by the secretary of the treasury to have been expended in a single day in bribes descending as low as 200 pounds to the member. These were bribes paid out of the public treasury to members of parliament to vote for a government bill. That is the result of your rotten borough system.

At the risk of boring you, I am going to add a few quotations to those that were made here. On August 1, 1776, Doctor Franklin said:

"I hear many ingenious arguments to persuade us that an unequal representation is a very good thing. If we had been born and bred under an unequal representation we might bear it; but to set out with an unequal

representation is unreasonable. It is said the great colonies will swallow up the less. Scotland said the same thing at the union."

And Hamilton said before the New York convention: "Representation is imperfect, in proportion as the current of popular favor is checked."

And when the same distinguished gentleman from McLean began this morning to compare Jefferson and Hamilton, I supposed that he was going on to give us some quotations from Hamilton. He foresaw the coming of great cities and foreseeing them, with great wisdom he would naturally foresee their danger, and foreseeing their danger, he naturally would have said when that time comes, of course we shall depart from the representative government which we are now arguing for, and that was the quotation which my ears tingled to hear. They are still tingling. No such quotation came because Hamilton never said anything of the sort.

Jefferson said: "For let it be agreed that a government is republican in proportion as every member composing it has his equal voice in the direction of its concerns (not indeed, in person, which would be impracticable beyond the limits of a city, or small township) but by representatives chosen by himself and responsible to him at short periods, and let us bring to the test of this canon every branch of our Constitution."

Again Mr. Hamilton said—I am now quoting from Elliott's Debates from Madison's notes: "Mr. Hamilton had been hitherto silent on the business before the convention, partly from respect to others whose superior abilities, age and experience rendered him unwilling to bring forward ideas dissimilar to theirs, and partly from his delicate situation with respect to his own state. The crisis, however, which now marked our affairs was too serious to permit any scruples whatever to prevail over the duty imposed on every man to contribute his efforts for the public safety and happiness. Another descriptive ingredient in the plan (the New Jersey plan) is that equality of suffrage which is so much desired by the small states. It is not in human nature that the large states should consent to it, or if they did that they should long abide by it. It shocks too much the idea of justice and every human feeling. Bad principles in a government though slow are sure in their operation and will gradually destroy it."

May I ask you to bear in mind that last sentence until the end of my remarks? Our friend, the Governor, paid a great tribute to Hamilton this morning, and said he was a genius. He was. But to my mind the great political philosopher of those days was not Hamilton. It was James Madison. Every great political question he approached with a restraint and a reserve and a great fund of learning which must command our admiration even to this day. And he said:

"He entreated the gentlemen representing the small states to renounce a principle which was confessedly unjust, which could never be admitted, and which if admitted must infuse mortality into a constitution which we wished to last forever."

Again, a little later, Mr. Madison quotes himself as saying:

"Mr. Madison expressed his apprehension that if the proper foundation of government was destroyed by substituting an equality in place of a proportional representation, no proper superstructure would be raised. He reminded them of the consequences of laying the existing confederation on improper principles. All the principal parties to this compilation joined immediately in mutilating and fettering the government in such a manner that it has disappointed every hope placed on it."

Mr. Wilson, who was quoted this morning, said also:

"Mr. Wilson would add a few words only. If equality in the second—would be an error that time would correct, he would be less anxious to execute it; but being a fundamental and perpetual error, it ought by all means to be avoided. A vice in the representation like an error in the means to be avoided. A vice in the representation like an error in the first concoction must be followed by disease, convulsion and finally death itself."

"Conceiving that all men wherever placed have equal rights and are equally entitled to confidence, he viewed without apprehension the period

when a few states should contain the superior number of people. The majority of people wherever found ought on all questions to govern the minority. If the interior country should acquire this majority they will not only have the right but will avail themselves of it whether we will or no."

I might go on with more quotations of like kind, but there is no expression among those great men to the contrary. We all remember, I am sure, that on the 12th day of last February we gathered in this hall and celebrated the birth of Lincoln, Illinois' best beloved son. I am confident, too, that no one of you will forget, as I am sure I shall always remember, the very grateful tribute paid to that great man by the gentleman who presided that day. I am referring to the distinguished delegate from Schuyler. He told us how each morning as he came to the capitol and viewed the statue of Lincoln there he felt inspired with patriotism and uplifted for the duty of the day. It made an appeal to me because I have had the same experience, and I think, therefore, my friends, that standing in this hall, in the capitol of the State, which was delighted to honor him as her greatest, I may be pardoned if I turn to something that he has said for advice in this situation. In a speech at Peoria, one of his best of the earlier period of 1854, he said:

"By the Constitution, each state has two senators, each has a number of representatives in proportion to the number of its people, and each has a number of presidential electors, equal to the whole number of its representatives and senators together. But in ascertaining the number of the people for the purposes, five slaves are counted as being equal to three whites. The slaves do not vote; they are only counted, and so used as to swell the influence of the white people's votes. The practical effect of this is more aptly shown by a comparison of the states of South Carolina and Maine. South Carolina has six representatives and so has Maine. South Carolina has eight presidential electors and so has Maine. This is precise equality so far; and, of course, they are equal in senators, each having two. Thus, in the control of the government, they are equal precisely. But how are they in the number of their white people? Maine has 581,813, while South Carolina has 274,567. Maine has twice as many as South Carolina, and 32,679 over. Thus each white man in South Carolina is more than the double of any man in Maine. This is all because South Carolina besides her free people, has 387,985 slaves. The South Carolinian has precisely the same advantage over the white man in every other free state as well as Maine. He is more than the double of any one of us. The same advantage, but not to the same extent, is held by all the citizens of the slave states over those of the free; and it is an absolute truth, without an exception, that there is no voter in any slave state but who has more legal power in the government than any voter in any free state. There is no instance of exact equality; and the disadvantage is against us the whole chapter through. This principle, in the aggregate, gives the slave states in the present Congress twenty additional representatives—being seven more than the whole majority which passed the Nebraska bill.

Now all this is manifestly unfair; yet I do not mention it to complain of it, insofar as it is already settled. It is in the Constitution, and I do not for that cause, or any other cause, propose to destroy or alter or disregard the Constitution. I stand to it fairly, fully and firmly. But when I am told that I must leave it altogether to other people to say whether new partners are to be bred up and brought into the firm, on the same degrading terms against me, I respectfully demur. I insist that whether I shall be a whole man or only the half of one in comparison with others is a question in which I am somewhat concerned; and one which no other man can have a sacred right of deciding for me. If I am wrong in this—if it really be a sacred right of self government in the man who shall go to Nebraska to decide whether he will be the equal of me or the double of me, then, after he shall have exercised that right, and thereby shall have reduced me to a still smaller fraction of a man than I already am, I should like for some gentleman deeply skilled in the mystery of 'sacred rights', to provide himself with a microscope, and peep about and find out if he can

what has become of my 'sacred rights.' They will surely be too small for detection by the naked eye."

Are we going to stand in this hall and say that he was talking nonsense when he delivered that speech, or are we going to say that when he complained of inequality of representation in the Congress it was something other than unequal representation in the general assembly of the state? Can you differentiate them in principle? If they can be differentiated at all, it is just the other way around. There is more reason for inequality in the Congress than there is in the General Assembly, because Congress is the legislative body not of a state in the sense in which Illinois is a State, but it is the legislative body of a union of states, each state coming in as a sovereignty.

Reference has been made from time to time during this debate to the ordinances of 1787 which guarantees, as you all know, equality of representation. We all recognize and courts have held that that ordinance is not of controlling effect on a state, after it has framed a constitution and disregarded it. That question came before our own Supreme Court in 1915, in a case reported in the 155th Ill. The question presented to the court was the validity of an apportioning act, and the ordinance of 1787 was invoked by counsel to show it was wrong, and the Supreme Court in passing upon the question said, (I read from page 71.)

"Counsel do not seem to contend that this ordinance even if it were to be treated as in force in this State, has any extra constitution force, but refer to it as evidence of the inheritance by the people of a state carved from that territory of the rights of equal representation in the legislature, as an approved right. We do not think that the existence of this right so far as it can be possibly carried into effect by the instrumentalities of human government imperfect at best, will be denied by anyone."

That opinion was written by Joseph Carter, one of the justices of the court at that time, who I think had the respect of every member of the bar. I wonder if he dreamed that five years after he said those words it would be seriously debated in the Constitutional Convention that there was no such law as this. Now let me turn to the argument in support of limiting Cook county. The first argument which we heard was that there had been a compromise made to the voters of the state at the time the campaign for the approval of statute calling for the Convention was before the people. We were told that the word had gone out from those who were active in directing the campaign for the calling of the Convention that limitation upon Cook county would be had in both houses. I recall asking on one occasion, who made the promise, and the answer came, "Well, I cannot say exactly who it was, but it was generally understood, that was the impression given by those who were urging the calling of the Convention." Well, of course, it was known that nobody had any authority to bind anybody by such a promise, but I am frank to say that made a deep impression on me. I have had sometimes in my profession to plead for my clients the statute of frauds or the statute of limitation but I have never urged it in my own behalf. When I say I will do a thing it does not have to be in writing, and if I send out any agent to act for me, and by any possibility there can be construed as within the scope of his authority, a promise made by him, I feel myself bound by it, and I assume that you gentlemen who urged that promise feel that way about it, because of course you knew there was no binding obligation, you only felt that where such a representation had been made and acted upon, it was binding, so we are agreed on that. Whatever representation was made by those conducting the campaign with reference to this is morally binding upon us. I have in my hand a pamphlet entitled, Why Illinois Needs a Constitutional Convention issued by the Constitutional Convention Campaign Committee, headquarters, room 309, State Capitol building, on the first page inside the cover it says: The Constitutional Convention Campaign Committee, Honorary Chairman, Frank O. Lowden. Officers, Vice-President, Orin M. Carter, Chicago; Vice-Chairman, Daniel C. Kramer, East St. Louis; H. S. Bancroft, Secretary, and then follows a steering committee, headed by the name of the distinguished senator who

was one of our members and whose loss we deeply deplored, Edward C. Curtis, Clarence S. Darrow, B. F. Harris, Charles F. Howard, Frank F. Noble, Henry M. Bentley, Silas H. Strawn, Frank S. Whitman, Walter H. Wilson, and among the additional names are Honorable D. E. Mack, one of our delegates; Honorable Henry I. Green, one of our delegates, and on the back page is a list of the State Executive Committee, among whom I find Richard J. Barr, the honored brother of the leader of the down State men in this debate; James H. Cartwright, the honored justice on the Supreme Court; George E. Cole, from whom you have recently received a letter urging you to limit Cook county in both houses; Ira C. Copley, of Aurora; Charles S. Cutting, Rufus C. Dawes, F. R. DeYoung, Henry M. Dunlap, Henry I. Green, Morton D. Hull, Clifford Ireland, Cicero J. Lindly, Frank O. Lowden, Medill McCormick, Levy Mayer, Alexander H. Revell, William H. Rodenburg, Andrew Russel, David E. Shanahan, Lawrence Y. Sherman, Edward D. Shurtleff, Len Small, Frank L. Smith, Clyde E. Stone, a justice of the Supreme Court; Richard M. Sullivan, Springfield; Roger C. Sullivan, Chicago; John E. Traeger, Dr. Whitman, Walter E. Wilson, Charles E. Woodward, the President of this Convention, and Richard Yates—I have only picked out a few, and what do they say? Now, listen, this is the representation made to those men who voted for this Constitution implied by the argument made as a binding moral obligation upon us.

"There is some fear among down State districts that because of the growth of Cook county in population, Chicago and Cook county will dominate the rest of the State in the legislature. The dominating control of the government by one city or county is clearly not to be desired, either in the interests of that city or county or of the State. On the other hand it is no more desirable that the purely local affairs in Chicago and Cook county should be controlled by the rest of the State. The problem presented is one that cannot be evaded either by Cook county or the rest of the State. The Constitution commands senatorial reapportioning after each decennial census; however, there is no compulsion on the legislature to make this reapportionment. Its failure to reapportion under the 1910 census means Chicago has two less senators and six less representatives than it should have, under the present constitutional rule. Merely by legislative inaction Cook county has become limited in legislative representation, to a greater extent than is likely to be the case under any new constitutional provision. Moreover, such a system binds on the rest of the State an inadequate apportionment, which is wholly unequal. To meet the problem, it has been suggested that the new Constitution limit the representation from Cook county in one house, and that of the down State portion in the other."

That is what was set out and you say it is a binding moral force on this Convention, and then you come to us and say we will limit you in both houses. The argument that has taken place here has been partly on principle, and partly on precedent. The precedents have constantly referred to the United States Government and New York. I have already indicated what in my mind is the distinction between the United States Government and Illinois or any other state. The United States Government is what its name implies, United States. If we are to have county representation on the theory that our counties are analagous to the states of the Union, let us change our name and not speak about the State of Illinois, but talk about the United Counties of Illinois. How would you like that name for your sovereign State? That is what you mean. Then there is the preamble of the Federal Constitution, "in order to make a more perfect union." Shall we have as the preamble in our State Constitution, "in order to make a more perfect union of counties?" Why, it is ridiculous. It has already been pointed out to you that New York's situation is wholly different from ours. If I understand correctly, only two counties in New York have less than the ratio of representation, and those two are combined into one representative district. So that each county has the representative ratio. There are only sixty counties in New York and there is no such disparity of population as ours, but you are proposing to make the ratio of representation fifty thousand, and then have some eighty counties with less than the ratio

—it may be eighty or fifty, I don't know or care—eighty-three counties or four-fifths of your counties have less than the ratio. It is true that one state in the Nation has less than its ratio, but only one, and as has been pointed out, that was a mistake, and cannot be taken as a precedent. Will you bear with me a minute while I read you a few of the decisions of the Courts of Appeals of New York, on their county representation? I quote from Baird against Supervisors, an opinion written in 1893 by Justice Peckham, who afterwards graced the Supreme Court of the Nation, holding that the Board of Supervisors in dividing a county under the county representation scheme of apportionment must divide in accordance with the population. The court said:

"Under the Constitution of 1846 it is provided that a county should have at least one member of the assembly. This is not in the slightest degree inconsistent with the theory of citizen instead of corporate representation. There was then with one exception no county in the state so small as not to furnish a constituency respectable in numbers as compared with the number necessary to entitle it to a representative on the basis of one hundred and twenty-eight members for the whole State. The exception was the County of Hamilton which was to elect a member with Fulton county until the population of Hamilton should, according to the ratio, be entitled to a member. This is another proof that it was the population contained in the county and not the county itself which was represented.

"It is not the county however which was thus represented. It was the inhabitants thereof and it is certain they obtained this right to at least one representative not because the county as a corporation was entitled to it but because of the reasons above given. In no case was a county thereafter erected unless with a population sufficient to entitle it to one member of the assembly. It is impossible to give even a cursory reading of the Constitution of 1846 upon the subject of representation without seeing that a representation of the people as nearly as might be in equal manner was contemplated and provided for."

"It is now argued that because of the simple omission of the affirmative provision that the assembly districts shall contain as nearly as may be an equal number of inhabitants, the whole subject is within the jurisdiction of the supervisors and that board is granted absolute, uncontrolled, and entire discretion over the matter. We must bear in mind when construing the meaning of the section as it now stands that the policy of the state ever since it has existed as a state has been in the line of a direct representation of inhabitants as distinguished from their representation through corporations of a quasi political character."

So much for the precedent. Now on principle. An effort has been made to justify a different rule of apportionment, referring to congested districts, from that which prevails in the more scattered districts, by reason, sometimes it has been said by the character of population as an entirety, and sometimes it has been insinuated, indeed by one delegate it was asserted, because man for man they are not the equal of the voters down State, and by many the same thing has been insinuated. Now if I were a resident of a county other than Cook, and it were suggested to me that the people of Cook county were not entitled to the same consideration that the people of other counties were because they are different I think I would begin to make some inquiry about it and try to find out how the people of Cook county have discharged their duties of citizenship, and what manner of people they are compared with the other people in the State. I think it would occur to me that there had been abundant opportunity in the last few years to test the patriotism of the people in the different parts of the State, and I would seek enlightenment upon that point, and I would turn to the figures telling how the people had contributed to the support of their government by the purchase of government bonds. I would recognize that it would perhaps not be fair to judge the relative patriotism of the different parts of the State by the amount contributed, because some parts are more prosperous than others, or even by the amount given on the average, be-

cause the average given in the richer communities will be much raised by the large purchasers of particularly rich individuals, but I should take those items into consideration and then I should seek to find out what proportion of the population bought any bonds, and I should think that that would, perhaps, be a pretty fair guide as to their devotion to their country or the people of their community, and so I turn to those things and I take the figures for the fourth and fifth loans. The average percentage of those who bought bonds from the total population for the whole State of Illinois is 26.4. A little over one out of four in the State of Illinois, came to the support of its government by pouring out from their earnings in the purchase of bonds, a record I think not to be despised, but the percentage in Chicago, yes in Cook county, was 31.3 per cent, about a quarter larger, about 25 per cent more. Some other figures, the home town of the gentleman who stood up here and said to our faces, that the citizens of Cook county do not match man for man with those down State, the percentage of that people in that city was 17.99 per cent, scarcely more than an eighth, and if you want the figures on the average amount contributed in Cook county for the fourth loan, they were \$115.00 per head, and for the fifth loan, \$95.00 per head, and in Bloomington for the fourth loan, they were \$56.00 per head, and for the fifth, \$50.00 per head. So that I conclude that if we are to judge the merits of our citizenry by their willingness to pour out of their treasury in support of their government for war purposes, whether measured by the average given or measured by the total of those giving in the population, Bloomington does not compare favorably with Cook county, and it seems to me that if I lived down State and it was suggested that the people of Cook county were not fit to vote on an equality with other people of the State, I would pursue my inquiry a step further and I would find out whether Cook county could support in man power with those men who were ready to go to the front, and lay down their lives for their country, I would like to know how Cook county compared with the other counties of the State on that.

The registration on the free draft for the entire State was one million five hundred and seventy-five thousand eight hundred and seventy-seven, and for Cook county it was eight hundred and fourteen thousand, three hundred and sixty-four; the rest of the State seven hundred sixty thousand five hundred and thirteen. The rest of the State having as you know a larger population, contributed considerably less than a half. I made a little comparison between the part of Cook county outside of Chicago, with the thirty smallest counties and there were registered out of that part of Cook county outside of Chicago seventy-nine thousand nine hundred and seventy-four, and from those thirty smallest counties having a population of substantially twice of that part of Cook county there were registered seventy-seven thousand nine hundred. So that in ability to furnish fighting men when it comes to war, the rest of the State goes to the despised County of Cook. And then I think it would occur to me, if I lived down State, whether this considerable part of that county up there that is not Chicago at all, I wonder what sort of people they are, I wonder what they would do, and I think I would look up a little bit, if I knew nothing about them, and if I did, I would find in agricultural products that the county is second only to the great County of McLean. And I think I would be curious to know how the farmers of Cook county are as compared with the County of McLean—no absolute comparison can be made of course because there may be a divergence in fertility of soil, but certainly it has never been suggested that the soil of Cook county has been more fertile than McLean, so when I look to find the value of the products per acre in the 1910 census, as shown from Cook county to be forty-four dollars and fifty cents, and McLean, forty-three dollars and fifty cents, I should conclude even in the exalted calling of farming the men of Cook county were not to be despised. Now, my friends, it has seemed to me possibly two or three questions have been confused with each other. There is the question, "Shall the great center of population be allowed to dominate the State?" There is the question, "Shall that part of the State not in the city be allowed to

control the city?" And there is the question, "Shall neither be allowed to control?" We can settle the question in one of the three ways, but let us keep our minds clear and not confuse them. By the adoption of section six, you have already put a limitation on Cook county in the senate which you are agreed upon among yourselves, if I understand rightly, puts an effective check on Cook county even if the alternative proposition should be adopted by the people. In the explanation given to us by the gentleman from Champaign he told us the reason for increasing the number of senators giving all of the increase to the State outside of the city, was so as to protect the down State in the event the people should vote for the alternative proposition, against organizing the lower house, so I am justified I think in assuming that you have protected yourselves against domination by that increase in the senate, so the first question, shall the city dominate, has already been answered. Then we have the question, shall the State dominate the city or shall either control, and the proposal you bring is that the down State shall control the city. Why? By your own admission you are protected by the increase in the senate; why should we not be protected against you? No answer to that question has been given and no answer to that question can be given. I wonder sometimes if this might occur, some day there might be elected from the State of Alabama a congressman-at-large. And they might find it convenient to redistrict the State as we have, so take one of their congressmen and one of their senators, as congressman-at-large, and when he presented his credentials some member of the Republican majority in the House might say, "I challenge the right of that man to a seat in this hall." The 14th amendment provides that whenever the right of a male citizen of 21 years is abridged the right of representation in the Congress shall be correspondingly abridged. Alabama has imposed a pottery test, an educational test and a grandfather clause, and by so doing it has disfranchised from ever having members of their legislature large numbers of their citizens; so that the voting population of Alabama is today over-represented in Congress without the congressman-at-large, and the Congress should be called on to decide the right of that man to his seat. Now supposing, my friends, we should adopt your Constitution, as proposed now, how are the congressmen from Illinois going to vote on that question, if they sustain your contentions, can't the finger of scorn be pointed at them? Can't they be turned to and told "Why haven't you abridged the right of voters," quite truly as my friend said "not only in the County of Cook but in every county where the population is over twenty-five thousand." Do we want to put our representatives in Congress in that embarrassing position? And what will their answer be? I wonder if it has occurred to you gentlemen who are making this proposal that under this Constitution counties can be divided? There is McLean with its eleven hundred square miles, which would make almost three counties; and if you make your county representative, make your representation dependent on counties, aren't you holding out a temptation to cut the counties up? And will it not be an irresistible temptation? When you see approaching the day when even under this apportionment Cook county may have a majority, and county lines were changed and changed and changed annually until the Convention of 1848 put limitations on their right, but there is no limitation on the right of counties to divide, save that the inhabitant thereof shall vote therefor. Now it was hinted here this morning that something had happened of late, which changed the attitude of the gentlemen down State on this question. Well, let us be frank about it, I have no doubt he referred to the primary in Cook county last November or last September—evidently Cook county at that election voted as he disapproved—but evidently also Cook county voted in that primary as was approved by several of my friends from down State who were leading this fight. I had the privilege of meeting in a conference a couple evenings ago your sub-committee on which the delegate from Kane was a member, and your leader on the floor, the delegate from Will, and those gentlemen co-operated with the particular faction of the Republican party that was successful in those primaries. Now it has been said up in our county that that faction of the

party has a peculiarly astute leader, a gentleman who holds no office, but who is extraordinarily keen in his political senses in that he foresees as far way ahead, and knows how to manipulate in politics so that the result which he desires can be accomplished. The leader of that faction of the party has already announced that he desires to defeat this Constitution, and proposes to do so; well, if that pronouncement is so, it can be said without stretching our imaginations that this astute leader has already laid his plans to do so, and is prevailing upon his political friends from down State to put some thing into the Constitution that will beat it, but I submit to your inquiry whether this astute leader—who desires above all things to beat this Constitution has played upon his political friendship with the gentlemen I have suggested and possibly the gentleman from Bond. The gentleman from Champaign said very truly that this plan of county representation operates against the counties down State as well as against Cook county; as a matter of fact it operates more severely against them than it does against Cook; with 62 members from Cook each one of them will represent 49,403 people, but in Lake county one representative will represent almost 75,000, and in McLean county 68,000; so that the representation of Lake county is giving up more than the representation of Cook county, and the representatives of McLean county are giving up more than Cook. An appeal was made to us by the gentleman from Champaign to recognize their fairness because they were willing to make the sacrifice, too. Well, I want to say to you gentlemen it is not only a question of fairness, we are not questioning that only, but we challenge your whole theory. We say it is a reversion to the rotten borough system. We say you are going to bring about in Illinois that condition that prevailed in England when men were bribing the General Assembly out of the public treasury. That is the thing you are heading for. When you say to Hardin county—I don't want to say anything unkind about Hardin county, with its 7,000 inhabitants, 11.2 per cent of which are illiterate—when you say to that little county that it can say as much upon the question of how the State of Illinois shall be governed as McLean county or as Lake county, I say you are laying the foundation for the rottenest governmental system that ever cursed the State. You gentlemen may stand so well in your communities that you can go back to your people and say that you adopted this Constitution, we will have to aggregate ten of you to have the same voting power that one man has down in Hardin county, and Governor, you may be able to say that to your people but any man from Cook who would dare go back and say that would be laughed to scorn, and rightly laughed to scorn. There is much I would like to say on this question of county representation, but you have been very patient with me and the question has been pretty well covered, so I want to discuss now for a few moments your alternative proposition. You say that you will put into this Constitution the provision of county representation, and then you will submit separately an apportionate representation plan, and the gentleman from Champaign assures us that you are helping us out, because we will only have to educate our people to vote yes on the Constitution. Well, let us see, if a voter votes yes on the Constitution he votes for the limitation in both houses. He votes for the county representation plan because it is in the Constitution, and he cannot vote without voting for it; then he votes yes on the proportionate representation plan and thereby negatives his vote for the limitation. He is a stand-off. He has voted half, each way. If he votes no on the Constitution then he votes no on your county representation plan, and if he votes yes on the separate submission he votes yes on that. And I shall be obliged to say to those that feel as I do that this plan is so vicious as to take from the Constitution any other merit it can possibly have. If you feel as I do there is only one way for you to vote and that is no on the Constitution, and yes on the separate submission, and that will be the word that we who feel as I do will pass out to our friends in Cook county. It is the only thing that we can do.

Now, my friends, if you will bear with me just a little longer I want to discuss this question on principle. I want to discuss briefly the political

philosophy of what we are trying to do. I suppose it is true that in no department of human knowledge has so little progress been made in all the ages as in the science of society. We probably know less about the rules which govern the evolution of the organism of society than we know about any other branch of knowledge, and I therefore shall try not to be dogmatic but I take it there are certain analogies between the laws obtaining in physics and the laws obtaining in society. This earth on which we live is revolving upon its axis, and it is revolving around the sun, and if it were not for a happy coincidence of circumstance of force, the quality of the centrifugal force which tends to disrupt the earth as it revolves on its axis with the centrifugal force of gravitation we should be hurled into space and earthly glory, and the earth would be no more. It is just that happy incident of force that keeps the physical universe in existence. Now there is an equality of force in organized society which produce equilibrium and when one of those forces becomes greater than the other just what happens in the physical world happens in your political world or organization. You get chaos. You have physical power and you have political power, and if you bring those two powers into conflict that which is superior will predominate. Let me preface what I am going to say with this; there was a little brook, a little stream trickling down the hillside, and some wise man among the people who lived around there said "This stream is taking up space that we could use to advantage; let us dam it up" and somebody else said "you put a dam there and in the course of time the water will rise and come over it." But the wise man said, "when that happens we will just build that dam a little higher, and we will go on that way." But, the other man said, "the day will come when your dam will break." The man who was advising the people to build the dam said, "don't let him terrify you, he is trying to frighten you, he is telling you to beware that the dam will break, he is using threats"; and the people said, "we won't be bluffed by any threats; we will keep on building the dam." And they built their dam and just as the wise man foresaw the water rose, and they built their dam higher, and higher, and the water rose higher and higher and the pressure became greater and greater and the day came when the dam did break and the water overwhelmed the community. So I suggest to you, my friends, that the wise man who warned them at that time was not uttering a threat; he was using his knowledge of the laws of physics, to point out to his friends and neighbors what would happen. And so I trust you will excuse me from any accusation of making any threats. Nothing is further from my thoughts. I am trying to discuss the philosophy of the situation just as fairly and honestly as I know how, and I am trying to point out to you what I regard as a natural law prevailing in society with just as relentless energy as the law of gravitation does in physics. Now you can build your dam higher and higher as the years go by and hold back the majority, but because the majority have the physical force, it for no other reason, your dam will break and the higher you build your dam the worse the trouble will be, the greater the overflow. So I inquire, ought you now to take into consideration whether you will start your dam at all? We who live in this country are prone, under written Constitutions, to put more weight on the written Constitution than it deserves or can bear. Constitutions, like other written laws, are laws just so long as they express the abiding intention of a majority of your people, and the minute that they cease to do that, they cease to be law. You cannot make law by writing on a statute book. You cannot make law by writing it into a Constitution. You can make law by writing only when you write that which is in the conscience of your people, and if you impose upon a section of your State a limitation which seems to the people of that section unfair you are inviting the disaster, that Mr. Hamilton, the genius, foretold. I thank you, gentlemen.

Mr. JARMAN (Schuyler). I dislike very much to attempt an argument of this question at this hour of the night. Several months ago I stated to this Convention my ideas on this question. I do not approach this question from the standpoint of the county in which I live, as the gentleman who has

just preceded me has said he has done; I come here representing a district of counties, and I sympathize with him in his love for his County of Cook, but a much higher love have I for my State, and a much higher love have I for my nation. When I approach this question, I approach it not from the standpoint or interest of my county; I approach it seeking the best interest of the State. Unless this proposition can be sustained upon the basis of good government, that it is for the welfare of the whole State, then I am not in sympathy with it. It is a pressing issue, and it must be met from this standpoint. It cannot be supported or opposed by accusations of unfairness, mere prophesies of calamity, or by crimination or recrimination by the parties to either side. Our attitude should be that of patriotic citizens of the State, and not devotees of our city or county. A sound conclusion can only be reached by seeking the best principles of government, studying the history and experiences of the states, giving heed to the instructions and judgment of worthy statesmen, mindful of the motives of human nature, and applying these to the given condition. I am heartily in favor of county representation. I believe it is for the best interest of everyone. It is for the best interest of the people of the State as a whole, but I said to the sub-committee, that I came from a small county, and was perfectly willing to and will vote with the majority of this committee, to sacrifice any representation from my county, in order to carry out what I conceive to be the best principles of government for the State. I never knew anything about this question being discussed to any extent, until I received the pamphlet or document that the gentleman preceding me read from awhile ago. I understood from the chairman of this committee, that he had never heard of this question of limiting Cook county in representation, until he came to this Convention; yet, I see his name attached to that document which was sent over the State, and I see thereto attached the names of ninety-six prominent men from Cook county, as members of an executive committee.

CHAIRMAN SHANAHAN (Cook). For the benefit of the gentleman from Schuyler, I will say that I never heard of the document before today, and no one was authorized to use my name, and everyone in this Convention knows that I have been opposed to any limitation in either branch of the General Assembly, and I have not made any attempt to conceal that fact.

Mr. DUNLAP (Champaign). I just wish to make a remark along the line of the remarks of the chairman of the committee that I never signed my name to this proposition and never knew there was such matter being sent out until I received it, and I have always been in favor, contrary to the chairman of this committee, of limitation in both houses of the assembly.

Mr. MAYER (Cook). I notice in Mr. Hamill's reading that my name appears on that pamphlet. I never saw it before. Never heard of it until this late hour. Never received any intimation that the pamphlet was going out and being used. I presume that if the pamphlet was examined carefully it would indicate clearly the members of the executive committee.

Mr. HAMILL (Cook). Your name was on the executive committee.

Mr. MAYER (Cook). The pamphlet contains the members of the executive committee, but I don't suppose it was issued on their authority; it is just like a letterhead, giving the officers and the name of the corporation.

Mr. JARMAN (Schuyler). No, it gives the name of the organization as "The Constitutional Convention Campaign Committee," Headquarters 309 Capitol Building, and the officers, with Frank O. Lowden, Chairman, and the names of the Executive Committee printed on the last page of the document.

Mr. LINDLY (Bond). I want to reiterate just what the chairman of this committee has said; that I never saw the pamphlet and never knew anything about it.

Mr. GREEN (Champaign). I think a word of explanation ought to be made so that it will not be necessary for all the delegates to make the same assertion. That pamphlet was sent out by the Secretary and after all it does contain the earmark that there has been the suggestion of limitation of one house, and the limitation of down State against the other. But for all of us whose names are on it, it was issued by the Secretary; I had

nothing to do with it, neither did anyone of the rest of us, except the Secretary.

Mr. WOODWARD (Cook). I move that there be a unanimous white-wash granted to all of them.

Mr. JARMAN (Schuyler). I called your attention to this pamphlet, first for this reason, the gentleman preceding me referred to it, and referred to it as an obligation on the part of those gentlemen to support a proposition for limitation in one house. I find in this pamphlet as I read it, I don't know how much of it the gentleman read, and he may have read this, but this is what it says, and it is what attracted my attention when it was first called to my attention before the campaign for election. This was issued before the campaign on the primaries for the vote of the people to call a Constitutional Convention, a vote on the resolution submitted by the legislature as the gentleman suggests. It says: "The dominant control of the government by one city or county is clearly not to be desired, either in the interest of that city or county or of the state."

Mr. HAMILL (Cook). That is the reason I read it.

Mr. JARMAN (Schuyler). I stated I did not know whether you read it or not. That is the only principle we are contending for. There is nothing more in this proposal than the proposition stated there. And then the pamphlet proceeds "in fact a similar arrangement is in operation in New York between New York City and New York State." That is the simple proposition that we are contending for here, and I think the down State delegates would be willing to accept word for word, so far as applicable, the proposition in the New York Constitution.

Mr. WOODWARD (Cook). Will the gentleman yield to a question? Was it the reading of that pamphlet that induced you to become a delegate to this Convention?

Mr. JARMAN (Schuyler). Well, I am sure I cannot answer that. If it was, sometimes I wish I had never read it.

Mr. WOODWARD (Cook). Have you just recently experienced that feeling that you wish you had not come here, just today?

Mr. JARMAN (Schuyler). No. I experienced it when you refused to hold sessions of this Convention at least four days of the week. Now with that proposition before us, what is the reasonable course for us to take in reaching a decision as to what we ought to do? In determining that question, we must determine two questions: first, whether or not the limitation of a small area, a political unit, of large population, is a safe principle of government; and second, whether or not representation should be based solely upon population. These are the two principles of representation known to the governments of self-governing people, and the first, with reference to territory or political units, is just as firmly imbedded in the governments of self-governing people, as the principle of representation by population. At this time and upon this question I am not concerned very much what the members of the Constitutional Convention, which framed the Federal Constitution, said, as has been quoted so freely here. What concerns me now is, what they did on this question. I make this statement, and if it is not correct, I challenge any one to correct it, and it is this: that there is no officer elected under the Constitution of the United States, that does not take into consideration representation by territory and political units. The President is chosen by electors of the state, instead of by the people, as a whole; and the Vice President likewise; and both of whom shall not come from the same state; and if the President shall not be chosen by the electors, under the terms of the Constitution he shall be chosen by the House of Representatives, each state having one vote. The representation in the Senate is entirely and absolutely based upon the principle of representation by political units, each State, large or small, being entitled to two Senators. The representation in the House of Representatives is based partly on political units, and partly on population. Then why come here and argue for two days, that representation by population is the only proper principle of self-government? It is not true, never was true, and it is not true in any country in the world.

It is said in this pamphlet, that it is not right for one county to control the government of the State. What is the government of the State? Is it the House of Representatives and the Senate? No. Powers of the government are vested in the Executive, the Judicial and the Legislative branches. The Governor and the Lieutenant Governor and the other State officers are elected by a vote of the whole people, and they appoint all the other executive officers of the State. With a majority of the electors, and representation based solely upon population, Cook county would soon dominate and control the government of the State, and direct the exercise of every power of government in every county, and of the whole State. Do you want to do that? With a limitation upon Cook county in both Houses, Cook county could then control all the powers of the Executive and Judicial departments of the State, which are far greater in the control of the government than the power of both Houses of the General Assembly. If you can prove to me that it is good government to do this, I am for it; but I would rather here tonight lose my right hand, than to vote against what I think is my duty to my State.

What has caused this question to come up? What is this principle that caused other states to take it into consideration? It was stated by the gentleman here today that it was permitted in the State of Maryland by the negro vote; that that limitation was put on the City of Baltimore by the negro vote. The limitation was put on before the negroes were entitled to vote. That is the fact about it, except with this, the Constitution of Maryland was amended in 1910 but the districts in the City of Baltimore were changed from three to four in 1910 and from 1867 to 1910 it had been three districts. You say what prompted it in New York? It was political exigency. I have searched the records, and I have tried to become so intimate with this question that I can see and do my duty. You say that the City of New York did it because it was a partisan political question. I find on my research that there is not a government in the world, there is not a state in the world that is dominated by one county or city or locality. I find that in the United States there is no state in this country that can be dominated by one city or county. I do not find a representative national statesman that does not agree with the proposition that these small areas of large population ought to be limited. What then should I do, after studying the theory of representation, the practical operation of it, take the experience of the states of the world, the experience of all of the states of the United States, the experience of the most eminent statesmen of the country, what then shall I do? Can you reach any other conclusion? "But," they say, "in New York the Senate is limited, New York City is limited in the senate and it is not limited in the house, and it was a partisan political combination." I dislike to hear men say that of eminent beloved men. I do not believe that Joseph H. Choate would violate his oath as a member of the Constitutional Convention; his duty to the State of New York in order to carry out the designs of a political party, and that is what we have got to believe when you say it is a political combination. I do not believe that Seth Low would do it. I do not believe that Shuerman would do it. I do not believe that Gen. Wickersham would do it, or Elihu Root would do it, every one of whom were residents of the City of New York, and who drew probably, this proposition with reference to the limitation and supported it on the floor of the Constitutional Convention. You have heard the speeches by the distinguished gentleman from Cook, Judge Cutting, from Chicago, with reference to what was said by some members of that Convention. Why, gentlemen, have you read also the speech of Elihu Root—I have no doubt Judge Cutting read it—and did you also read the speech of Joseph H. Choate? I have no doubt that you read it. I referred in my address to this Convention several weeks ago to the volume and pages in which that debate occurred.

Mr. HAMILL (Cook). The speech you refer to made by Joseph H. Choate in 1894 was, when he said there was no civilized state that did not limit the big city. At that time there was no limitation upon Chicago, and you agree that Illinois was not a civilized state at that time?

Mr. JARMAN (Schuyler). I don't know what he thought about that. In 1894 Chicago probably was not so big. It is true isn't it that in every state where large cities exist that they are limited in their representation?

Mr. CUTTING (Cook). No.

Mr. JARMAN (Schuyler). In what state isn't it?

Mr. CUTTING (Cook). California.

Mr. JARMAN (Schuyler). Is there any city in California that can dominate the state?

Mr. CUTTING (Cook). You did not say that; you said there was no big city in any state that was not limited.

Mr. JARMAN (Schuyler). But that is not what we are talking about.

Mr. CUTTING (Cook). Michigan is another; Minnesota, the Twin Cities; Ohio is another. Missouri has limitation in one house only. Louisiana with New Orleans in it.

Mr. JARMAN (Schuyler). Didn't you refer to a big city that could dominate the state?

Mr. CUTTING (Cook). No, I did not. I understood you to say that there was not a big city without limitation.

Mr. JARMAN (Schuyler). That is what we are talking about and that is the only question involved in our discussion.

Mr. CUTTING (Cook). There are one or two in these United States or possibly three; of course it is not a very wide subject of investigation. Mr. JARMAN (Schuyler). Doesn't Alabama place a limitation on its cities?

Mr. CUTTING (Cook). I don't know.

Mr. JARMAN (Schuyler). Doesn't Florida, doesn't Kentucky, doesn't Georgia, doesn't Vermont, doesn't Pennsylvania, doesn't New Jersey, doesn't Missouri, doesn't Minnesota, doesn't Montana, doesn't New York, and doesn't Delaware, and doesn't Maryland? Every state in which there is any possibility of the preponderance of the population, and many states where there is not any particular danger. You talk about representative states and representative politics. From Florida to Maryland on the east and from Florida to Missouri on the west every state that has any large city along those lines limits the large cities in the legislature.

Now, you have this condition; you have a governor and you have these officers of the state, and you have that governor with the veto power, and you have the governor with the appointing power. Now, if you limit the county which has the majority of the population of the state or a majority of the voters of the state, if you limit that county do you think as a matter of power the office of governor and lieutenant governor, and the other executive officers of the state, elected and appointed, as a matter of power, you would rather have or the two branches of the legislature? Now, that is where you get to and it is the inevitable conclusion, and the process of investigation leads inevitably to that condition. Now, I tried to show you several months ago when I addressed you that that was considered a dangerous condition to allow existing. Experience proves it; history proves it. Then why shouldn't we do it and apply it here? The only answer that you give me, and it is the only answer that the gentleman preceding me made with reference to this proposition, was that from the beginning the theory of representation based on population was that it meant legislative purity. Is it in accord with history to elect an honest, trustworthy man where everybody knows everybody or is it in accord with history that you do it in the City of Chicago, and I ask you as matter of history whether more corrupt legislation has come out of Chicago than has come out of down State?

Mr. HULL (Cook). I would like to answer that question; I would like to call your attention to the unsavory legislation here in the 46th General Assembly of the State of Illinois, which elected a United States Senator who was expelled from the United States Senate, and if you will just look over the records of the men who were involved in that scandal you will find the honors are easily yours. You take the three or four men who confessed their dishonesty, where did they come from? Charles White, where did he come from? Hillspott, where did he come from? Mike Link, where did he

come from? and I won't mention the other names. Now, don't talk to me, I have been in this General Assembly for several sessions and I want to say to you when it comes to human nature men are alike, big city or small city, and there is no medal of purity which the men from down State or country districts can put upon themselves and say that we wear this and you don't.

Mr. JARMAN (Schuyler). I agree with you but I am answering the accusation of the gentleman when he said "when you elect the representatives from the small districts you are simply repeating the rotten borough." I think with you that human nature is the same. And I think we can elect as pure men and honest men in the County of Hardin or any other small county as you can up in the big city. Let me ask you who is more guilty, the man that gave the bribe or the man that accepted it?

Mr. HULL (Cook). Can you tell me who gave the bribe? Do you know? I don't.

Mr. JARMAN (Schuyler). I only know what the senate of the United States said, and that is all I know about it, but I think you raised that question, I did not raise it. I have said nothing in this debate from the beginning to the end in acrimony or in crimination or recrimination. I have not said unkind words in this debate up to this time with reference to any stealing or any unfairness or any thing in the way of damnable conduct, or anything of that kind. I take this debate as a matter of principle and not as a matter of personal feeling.

We have been appealed to here all day. We have been assailed with accusations and recriminations about the down State men trying to beat somebody. That is what we have heard all day long. We cannot stand everything. If it is not a good principle of government show it is not and we will abide by it. Furthermore, since you raised this question I got a letter a few days ago from a very eminent gentleman of Chicago, and one of the reasons that he gave to me in this letter for the limitation of Cook county in both houses was the Illinois Central grant, the Allen bill, the Gas-Sullivan bill, the Lorimer scandal, and many more. I did not raise this question. You pushed it into this debate.

Mr. DAVIS (Cook). Who wrote that letter?

Mr. JARMAN (Schuyler). Mr. Robert McMurdy.

Mr. MAYER (Cook). I have his name here as one of the directors of the Chicago Law and Order League.

Mr. JARMAN (Schuyler). Is that a dishonorable organization?

Mr. MAYER (Cook). No, no. That is the same league that is disgracing this Convention hall.

Mr. JARMAN (Schuyler). It is the first time that I knew that any honorable citizen of this State had no right to sit in the galleries of this Convention hall.

Mr. MAYER (Cook). Not when they come to lobby for votes on this question.

Mr. JARMAN (Schuyler). If you had been in the Convention before this session you would have seen hundreds of men around here lobbying for everything.

Mr. MAYER (Cook). I would have asked the same condemnation for them.

Mr. JARMAN (Schuyler). No man has approached me upon this question.

Mr. MAYER (Cook). You have received letters such as I, you have just read one.

Mr. JARMAN (Schuyler). Yes, I have received them from hundreds of citizens and I have invited them to write to me. I have sent letters all over my district to every lawyer inviting them to write to me and get their opinion on these matters. Now, I did not inject this into this Convention.

I simply want to refer to this matter of history. Judge Cutting took up the historical matter with reference to the New York representation. When that provision was placed in the Constitution in 1894, and under that provision when the state was reapportioned, the County of New York had

15 members in the senate. All of the state had 50 members in the senate. That made 15 and 35, though New York at that time nearly had half of the inhabitants of the state. How many did it have?

Mr. CUTTING (Cook). New York at that time was confined to Manhattan Island. It had 1,300,000 at that time.

Mr. JARMAN (Schuyler). It was made in anticipation of the growth of New York, just as this provision is made. At that time New York was composed of New York county, was it not?

Mr. CUTTING (Cook). Yes, but they knew all about greater New York which was mentioned again and again in the debates before the consolidation.

Mr. JARMAN (Schuyler). As the growth of the city?

Mr. CUTTING (Cook). No, about the consolidation. They spoke about greater New York in the consolidation of Brooklyn and New York in those debates.

Mr. JARMAN (Schuyler). But it was the understanding that there was to be a consolidation of those counties in one city and county?

Mr. CUTTING (Cook). Yes, it was.

Mr. JARMAN (Schuyler). That is the reason it was done that way, but instead of doing that they formed greater New York made up of four counties, and it is now five, as I understand it.

Mr. CUTTING (Cook). Yes.

Mr. JARMAN (Schuyler). New York City has a population of about five and a half millions of people, and New York State has a population of nearly ten millions of people, and yet today under that apportionment and with the four counties New York City has in the senate 22 members and the down state 29 members, making 51, and New York City has in the house 62 or 63 members; it is 62, and the other parts of the state have the rest of the 150, making 88. Now, that is the ratio of the population of the city and the state, and the provision of the Constitution at that time provided that no county in the state should have more than one-third of the representation in the senate, and it provided for 150 members of the house, but provided that there should be one from each county, making 61 members and the balance distributed in the state. So that under that provision, though it don't say so on its face, it absolutely limits the City of New York in the house for many, many years.

Mr. MAYER (Cook). That would give the two counties of Brooklyn and New York one-half of the senate.

Mr. JARMAN (Schuyler). It says that no county and an adjoining county, or one other county separated by water shall have more than one-half.

Mr. MAYER (Cook). That meant greater New York.

Mr. JARMAN (Schuyler). I don't know what it meant. Greater New York was not formed until 1897, but it meant those two counties, in Brooklyn and in New York City, but don't you see the difference, and here is where the principle comes in? Even if you have in one territory, two organizations of a county, you have two units of operation, and the principle all the way through in this matter is, that giving a unit the dominating influence it will control and control to destruction. You can see about what will occur, you can make your threats about revolution, you can make your threats about this Constitution not carrying, but, my dear friends, I honestly believe from a careful study of this question that if you make it possible for the City of Chicago to dominate this State government in all its departments, it means destruction. It has followed in the history of the world and it will follow in the history of Illinois. That is the very reason that these statesmen whom I believe to be honest in the State of New York, in the State of Delaware, in the State of Rhode Island and in the State of Maryland, have made these provisions in the Constitutions.

Now, you say we are doing something new, we are breaking a precedent. We are absolutely doing nothing of the kind. We are following every precedent in the history of this country, or in the history of the world.

The City of Wilmington, in New Castle county, Delaware, has more than one-half of the population of the state, and five out of thirty-five members of the House, and two out of seventeen members of the Senate. New Castle county has more than three-fifths of the population of the state, and has fifteen of the thirty-five members of the House, and seven of the seventeen members of the Senate. In the State of Maryland, Baltimore has, in fact, a majority of the population, and has twenty-four out of one hundred two members of the House, and four out of twenty-seven members of the Senate. That limitation has existed since 1867. You have, in Rhode Island, Providence with one-half of the population of the State, with only one-fourth of the members of the House, and one of thirty-nine Senators.

You take the limitation here that we have placed in the senate. It is one-third. Cook county only has to get 10 more votes for a majority. Under this apportionment Cook county only has to get 25 votes in the house to have a majority. Is that any very dangerous majority? Is Cook county in danger in any way? You have your financial interests, you have your commercial interests, you have your political interests, ramifying every corner of this State, that interest is multiplied hundreds by hundreds. It seems to me that it is like this: You take one dozen of strands and combine them in a cable, the combination of the strength of the strands thus combined is infinitely stronger than the total strength of each strand separately.

Don't misunderstand me. I don't mean to say that it is true simply because you live in Cook county, or that it is the people that live in Cook county. I claim and insist the same would be true of any population, because it is human nature and human selfishness. It is simply a governmental principle applied to a condition. That is the way I view it, and that is the way I think the committee views it. I don't believe that any man on that committee is actuated simply by selfishness with reference to their county. It is idle to discuss here that these small counties are represented. If you concede that the limitation in the house should be about 35 per cent, then what difference does it make where the 65 per cent is divided? It don't make any difference in the principle so far as Cook county is concerned.

So far as I am concerned, I would vote for this proposition if I knew that the Constitution would be beaten, or a similar proposition. I would vote for this proposition if I knew that Chicago and Cook county would create a revolution and separate from the State, because I would honestly believe as a citizen of this State that it is for the best interests of Cook county and the State of Illinois, and I am for my State, no matter what happens. (Applause.)

Mr. SUTHERLAND (Cook). Mr. Chairman, in connection with the statement that has been made that the Constitutional Convention was called for the purpose of limiting Cook county in both houses, I have been requested to call the attention of the committee to two pertinent facts. The campaign was a campaign of publicity. It was started and was conducted, so far as the State outside of Cook is concerned, from Springfield, but the headquarters' expense both in Springfield and in Chicago was financed entirely from within the County of Cook by one distinguished citizen in the City of Chicago, who at the request of Justice Carter, the chairman of the State committee, undertook to raise the money for that campaign of publicity which was largely printing and postage. Now, some of the district chairmen financed their own local campaigns, but even they received literature from State headquarters.

As to the vote that was cast on this question, which it was said was voted for for the purpose of limiting Cook county in both branches. The total vote cast at the election was 975,545, of which the affirmative vote in the State total was 562,012, a majority of all votes cast as required by the Constitution of 74,239½ votes. In Cook county the total vote cast was 392,000, of which 259,000 votes were affirmative or, in other words, of the 74,000 majority of votes cast in the State, 63,000 majority was cast in Cook county and barely 10,000 majority in the rest of the State altogether.

I was reminded when the distinguished delegate from Cook county, Mr. Iarussi, was delivering his eloquent speech, of a little scene during the

campaign, when the leaders of the foreign language groups and the foreign language newspapers in Chicago, in conjunction with the Americanization movement going on there at that time, were called together on this question, and they warmed to the idea that here for the first time they were to have a hand in the making of the basic law under which they lived; that in the last Constitutional Convention the names were all of men of Anglo-Saxon origin, and that here in this Convention we were going to have a representation of the new blood that has been pouring in to make America great. Can you expect the men who represent a community in which we have some of the very highest types of Americanism, can you expect them to go back and say, "We are going to close the door on you now that you are here, and we are not going to give you representation?" Do you think they would have cast such a wonderful majority for this question had that been the case? I doubt it.

CHAIRMAN SHANAHAN. The question is upon the adoption of the substitute offered for section 7 by the gentleman from Will. I had hoped to have the opportunity to talk on this subject, but I understand that you want to vote on this tonight, and I am not going to burden you with a speech at this time.

Mr. BRENHOLT (Kane). Mr. Chairman, before we vote on this question I want to say just a word. I believe county representation to be wrong, tending to create what may become a condition of setting the farming communities of our State as against the industrial, a condition already too acute and which we should not farther influence. But I also believe Cook county should be limited in both houses. Therefore, I would like to see representative districts based on population or electorate, with a provision that Cook county should never control. At the same time I think that the people should have the chance to decide and so I favor the submission of a separate section not limiting Chicago.

CHAIRMAN SHANAHAN. The question is upon the adoption of the substitute to section 7 as offered by the gentleman from Will.

(Substitute adopted.)

Mr. DIETZ (Rock Island). Mr. Chairman, I beg to announce that I did not vote on this question because of the fact that I was paired with Delegate McGuire who desired to vote in the affirmative.

Mr. BARR (Will). I desire to offer this resolution that carries with it the alternate proposal, being part of the report of the committee.

(Alternate proposal read.)

(Proposal adopted.)

Mr. BARR (Will). Mr. Chairman, I move you that sections 6 and 7 be reported by the committee to the Convention to become part of the Constitution, and that section 7 as submitted by resolution be reported to the Convention to be referred to the Committee on Schedule to be submitted separately.

(Motion carried.)

Mr. HAMILL (Cook). I move that the committee do now rise and report.

(Motion carried.)

Mr. SHANAHAN (Cook). Mr. President, the Committee of the Whole has sat, considered and discussed proposal 368 and reports the same to the Convention, with the recommendation that it be adopted, and it also reports a separate resolution that should be reported to the Committee on Schedule.

THE PRESIDENT. The chairman of the Committee of the Whole reports that the committee has had under consideration proposal number 368, and recommends to the Convention that the proposal be adopted as amended. The question is upon the adoption of the report of the Committee of the Whole.

Mr. HAMILL (Cook). Mr. President, I think we desire a roll call.

THE PRESIDENT. The secretary will call the roll.

Mr. SHANAHAN (Cook). Mr. President, may I interrupt for a moment? May I be recorded? I would like to vote "no."

THE PRESIDENT. The gentleman will be so recorded.

Mr. SCANLAN (LaSalle). I expect to vote "no" on this report. I went along with the down State delegates in the limiting of Chicago in the senate, and I believe then, as I believe now, that one-third proportion in the senate by the County of Cook is ample protection to the interests of the down State, and I am opposed to the idea of county representation. I am opposed to it because while I do not object to what my district would get, because under the new apportionment they would probably lose one, I do object to the fact that a county of 7,500 people is entitled to a member in the legislature when it takes 46,000 in my county to entitle them to a member of the legislature, and I want to go on record here now as against the report, and say that while I favor limitation in the senate to the extent that this committee has limited Cook county, I am absolutely opposed to county representation, and therefore vote against the entire report.

Mr. GALE (Knox). Mr. Chairman, I desire to explain my vote. This is put in such a way that an explanation seems necessary. I am in favor of the limitation of Chicago in the senate. I believe, unfortunately perhaps, I speak differently from nearly everybody else in the limitation of Chicago in the lower house also, but I think the county representation plan is as wrong as wrong can be. Nevertheless, this Convention having passed this proposal, I am going to vote aye on the proposition, with the understanding that I am opposed nevertheless to county representation.

Mr. DOVE (Shelby). Mr. Chairman, I want the record to show that my colleague, Mr. Chew, was here all day today and because of an indisposition he was compelled to leave the chamber this evening. He has instructed me to ask that he may be recorded as voting favorably on both of these propositions. I further want to state that at the time this matter was formerly before this Convention on June 17th, I voted and was recorded as voting against the substitute. I then stated, although the journal does not disclose the fact, that the reason of my vote was because I thought the down State members had surrendered to Cook county, that the limitation then provided in the substitute was not effective or effectual as a limitation of the lower house, that I then favored county representation, and for that reason was voting against the substitute, and favored at that time the majority report of the legislative committee.

Mr. DAVIS (Cook). I should like unanimous request to be recorded on the vote that is about to be taken. I vote no on both propositions.

Mr. DEYOUNG (Cook). I vote the same way.

Mr. MILLER (Cook). No, on both.

Mr. TRAUTMANN (St. Clair). Mr. President, before this roll is called, under the rules I desire to explain my vote. I have not said a word upon this proposition either yesterday or today. When the vote was taken in the Committee of the Whole I voted against the substitute offered by the gentleman from Will. I am in favor of limiting Cook county, but I am not in favor of county representation and I never have been and for that reason I voted against it in the Committee of the Whole. The majority of the delegates in the Committee of the Whole have carried their proposition. Upon these roll calls I intend to vote aye.

Mr. CARLSTROM (Mercer). Refraining from speaking because of the lateness of the hour on the main question, I believe it would be an injustice to myself to remain silent at this time. I voted "no" on section 7 as substituted for fundamental reasons and objections, not that I am against the limitation. It was because of the form in which it was presented. I do not wish to be understood as voting against the principle involved, or the method involved, and I likewise wish to vote aye on this.

Mr. GARRETT (Winnebago). I voted for section 6 as substituted. I was not in favor of section 7. I have been opposed and am opposed to county representation. However, at this time I am like a number of the other delegates; on this matter that is before us now I shall vote aye.

Mr. SCANLAN (LaSalle). I want to be in accord with the six or seven last ditchers, with the reservation that I made before, reserving my fight for second reading I will be recorded as voting aye.

Mr. BRENHOLT (Kane). I presume that my remarks that I made a few minutes ago will explain my point of view on the question. On this vote I desire to be recorded as voting aye.

Mr. DIETZ (Rock Island). I will adopt the explanation of my colleague from Mercer.

(Roll call.)

THE PRESIDENT. The Committee of the Whole reports a resolution recommending an alternative section 7 of the legislative article and the question is upon the adoption of the report of the Committee of the Whole recommending the separate article.

(Roll call.)

Mr. GALE (Knox). Mr. President, I move that we do now adjourn until three o'clock next Monday afternoon.

(Motion carried, and the Convention at 2:30 a. m., Friday, December 3, 1920, took an adjournment until Monday, December 6, 1920, at 3 o'clock p. m.)

MONDAY, DECEMBER 6, 1920.**3:00 o'Clock P. M.**

Convention met pursuant to adjournment.

Prayer by the Chaplain.

The President in the chair.

THE PRESIDENT. The journal of Wednesday, December 1, 1920, was placed on the desks of the delegates at the last session. There being no corrections proposed, the journal of Wednesday, December 1, 1920, will stand approved.

The Convention will now resolve itself into the Committee of the Whole for the purpose of considering a proposal relative to forestry. The Chair designates Delegate Tanner to act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole with Delegate Tanner in the chair.)

CHAIRMAN TANNER. The committee will be in order. We have under consideration proposal number 355. The clerk will read the proposal. (Proposal 355 read.)

Mr. DUNLAP (Champaign). Mr. Chairman, I ask unanimous consent to have an error corrected in the next to the last line, the word "and" changed to "as," if there is no objection.

(Consent granted.)

Mr. DUNLAP (Champaign). Mr. Chairman, one or two of the members have suggested to me that upon the general subject of forestry they were of the opinion that something ought to be done to encourage the planting of forest trees. It might be well to say in the beginning that the denuding of our forests has been going on for a great many years, and while those who have looked forward to the future have issued warnings from time to time of what would become of the wood industry of the nation, little heed has been taken of these warnings. When it is known that in the State of Illinois today 90 per cent of all the wood that is used for commercial purposes in this State comes from outside of the State, it will be noted that either one of two things has happened: Either that there was no timber in the State of Illinois in the beginning suitable for the industries of the State, or else that it has been used up. Of course, both of these things have happened.

In the first place, there are some woods that have to be imported for use to make all the timber that is used in Illinois—much of it, I should say, has been used up and no attempt has been made to replace it. I remember something like 53 years ago standing upon the top of the highest hill in Union county known as Bell's hill. Looking up you can see where they have built a house upon that hill. I was up there two years ago. Fifty-three years ago I could look in all directions from the top of that hill and see nothing but forests, nothing but timber in every direction, with just occasionally here and there a little spot cleared off where some pioneer settler had made a clearing for the planting of a fruit plantation. When I was there two years ago I could see the hills but no forests. Those hills are practically denuded of all the timber that was upon them, and when I make this statement I think I can well make it for the State of Illinois, that the same thing has happened in every part of the State where the land was suitable for cultivation, that the timber has been removed and no effort has been made to replace it, but I saw in driving through that country two years ago many of the places and hillsides where the forests had been

removed were unfit for cultivation. The rapid flow of the water, which when the timber was on it was prevented, had washed gullies down those hillsides and rendered them unfit for cultivation.

So that the land itself now is being denuded because of the fact that the timber has been removed. I don't think it is necessary in talking about this proposition that I should try to indicate what the importance of it is. There are 140,000 employes engaged in wooden making industries in this State of Illinois, and \$400,000,000 of capital is invested in those industries. The value of the products are \$320,000,000. Governor Lowden, in speaking of this matter in his message to the legislature has this to say about it:

"I wish to call your attention to the fact that there are many hundreds of thousands of acres of land in this State better suited to forestry than to anything else. Private owners of land, however, will not content themselves with a crop which does not mature for half a century. They will, therefore, naturally not plant these acres to trees unless they have encouragement from the State. It is possible that if all the now waste land of Illinois were planted to trees, in half a century they would produce timber enough for our own needs. Besides this, such forests would help to conserve moisture, would diminish the damage from overflow, and would tend to prevent the washing and gullying of our rolling lands. The State should adopt a policy to encourage the reclaiming of these waste acres."

Then after two years of service as Governor of this State he renews his recommendation on forestry and he says that: "In my inaugural address two years ago, I called attention to the fact that we have large areas of land in this State better suited to forestry than to any other use. Provision was made in the Civil Administrative Code for a Board of Natural Resources and Conservation to advise the Department of Registration and Education regarding the natural resources of the State, forestry being specially mentioned. Under the direction of the department, some investigational work along this line was undertaken, and as a result the department recommends that a forester be employed to make a preliminary study of the needs and possibilities of the situation, and I concur in this recommendation."

"There are many thousand acres of land in Illinois which at the present time produce nothing, but which are suited to tree culture. Without encouragement, however, from the State, the owners of these lands are not likely to devote them to a crop which cannot be harvested for possibly fifty years. The taxes upon these lands produce but little revenue to the State. If the State could exempt these lands from taxation upon the condition that they were planted to trees, with the provision that when the trees were harvested a proper tax would be collected upon the product, I believe that much of such land would become permanent forests, a source of revenue to their owners and to the State."

I have from the Department of Registration and Education statistics with regard to it that might interest you:

"The proposal for an adequate forestry survey of the State is based on the fact that we have now something over three million acres of forest in Illinois (U. S. Census of 1910), from which the owners and the State are deriving much less benefit than they should if it were properly safeguarded and correctly managed; and the further fact, certified to me by the director of the Soil Survey of the State, that about 17 per cent of the land area of Illinois, or some six million acres in all, is of such a character, in respect especially to soil and topography, that it is better adapted to the growth of trees than to any other use; and that much of this area has been unwisely deforested, to the disadvantage of its owners and to serious injury of the land itself, and ought to be reforested as the most profitable use that can be made of it. We have here, in fact, a great natural resource now virtually neglected, whose importance is increasing rapidly as the forest resources of the country dwindle, and which can only be renovated, protected and utilized through the agency of the State."

Now, I am not going into that any farther. It is hard for us who live in northern or central Illinois, upon these fertile prairies, to believe that

there are five or six million acres in the State of Illinois that could be well devoted to forestry, but those are the facts as given you here. I don't know that this Constitutional Convention can do anything better along that line than to provide that the General Assembly shall have authority through some method—and the only one that seems to be recommended by the Department of Forestry, and the only one that I have seen recommended by other states and adopted by some of the other states, is that one of taxation, and the general consensus of opinion seems to be that this taxation should not be to prevent forests from being taxed; that is not the idea. It is just to postpone the payment of the tax until the time is reached that the man who has planted the forest will be receiving some remuneration from that planting. In other words, if there are certain areas of land on some of these farms along the rivers or in the hills of the State that could be utilized for reforesting purposes, and that portion of a farm could be set aside by the owner, and under the direction of the Department of Forestry and the State could be planted or replanted with trees of forest growth, that would be of value to the State hereafter; if there is any method by which we can accomplish that by postponing taxes or the collection of the tax upon that or a part of it, I think that we would be doing a great benefit to the future generations, if we were to start that proposition at the present time.

Now, this proposal leaves it to the legislature to prescribe some method for the taxation of areas devoted exclusively to forests and forest culture that will bring that about. About twenty years ago I took a trip through Switzerland and that portion of France that was devastated by the Germans in this late war especially did I go through. I saw there forests that looked like primeval forests, with woods that had never been removed, and yet I was told that those forests have been cut off and rehabilitated, reforested many times since the government took them over. It is said that seven hundred years ago Switzerland first took charge of its forests as a state proposition, and that they have a state forestry, and that whenever the owner of the forest or the area included in his tract wants to remove trees, he makes application to the Forester or his deputy, and the deputy goes through the forests and marks the trees that he may remove, but it is a part of the obligation that trees must be replaced to take their place, and I am told that the forests of Switzerland and France today are better than they were 700 years ago. That certainly shows a great deal of foresight on the part of a nation that will look forward to the needs of the people of the state that it is administering in such a manner that it will provide for the future.

Now, we as Americans thus far in our history have been going along the route that is the easier. We have been removing trees, we have been taking advantage of the natural resources that are upon our soil and we are not giving enough attention to the replacement of them. Now, that not only applies to forests, but it applies to the fertility of the soil, and we are just beginning to wake up along those lines; and this is a proposition that ought to meet with practically unanimous favor on the part of the members of this Convention.

If there are any questions that I can answer, or anything farther than I have here, I will be very glad to take it up, but I don't want to take up your time except to bring this matter to your attention so that you can vote intelligently upon it; but I want to say this, that this is not a proposition that applies to any section of the State, nor to the rural districts, but applies to the entire State of Illinois. The cities of the State are more vitally interested in this proposition than are the rural districts, because it is the cities of the State that consume the forests of the State, and not the farms of the State, so that it is a matter that interests everybody without exception in the State of Illinois.

Mr. TRAUTMANN (St. Clair). Senator, wouldn't it be possible under this proposal for the legislature to classify property in taxation matters? And, as I understood the other day, this Convention went on record against classification when the report of the Committee on Revenue was under discussion.

Mr. DUNLAP (Champaign). As I understand it, it did not. It went on record in favor of classification in one instance at least, that is of intangible property. It provided that that property should be taxed in a different method from what other property should be taxed.

Mr. TRAUTMANN (St. Clair). Do you think, under this wording, that it would be possible for the legislature to classify?

Mr. DUNLAP (Champaign). I think it would be possible for the legislature to provide a law that would postpone the payment of taxes for the time being, or such a part of it as it provides. If that is classification, why it would be classification. I do not regard that as classification in the sense that it applies to all property.

Mr. SUTHERLAND (Cook). Senator, would it be possible under this section for the legislature to provide that property on which there was tree growth in process might be completely exempted from taxation for a given period of years, or until the year of actual harvest?

Mr. DUNLAP (Champaign). Why, I would think that it would be possible.

Mr. SUTHERLAND (Cook). You don't think that is too broad a grant of power to give to the General Assembly?

Mr. DUNLAP (Champaign). Perhaps it is, but I think it could be done under this proposal. I don't think it is too broad a grant. I imagine that whatever is done in this regard will come through the investigation made by the department of forestry, on their recommendation, and I do not imagine that they would recommend anything that was not in proper line and for the best interests of the State.

Mr. SUTHERLAND (Cook). Might it not be possible for them to permit a complete exemption of land on which, for example, there might be located a coal mine, but the tract in general would be owned perhaps by a mining company, and would be devoted to forest trees for the purpose of taking advantage of the general exemption provision? Wouldn't that be possible under this proposal?

Mr. DUNLAP (Champaign). I don't think it would, for this reason, that this power that is given here is for the purpose of developing and conserving the forest resources of the State, and if it appeared that they were holding that timber there when it should be taken off and removed, why, then it would not be in the power of the legislature to exempt it from taxation. As I understand it, in the other states of the union that have adopted a similar provision to this, whenever the forest has, in the opinion of the department of forestry, attained an age where it could be removed, why, they have authority to order its removal, or at least the payment of the tax. When it has attained the age where it would bring money to the owner if it were removed and sold on the market, why, then it is taxed to its full value, whatever that may be.

Mr. SUTHERLAND (Cook). I don't think, Mr. Chairman, that the gentleman caught the full force of my question. I was thinking of a case where after the General Assembly had provided, as he says they might provide, that the lands during process of tree growth should be exempt from taxation, that the coal mining company owning a considerable portion of land which it was slowly developing, mostly underground, would cause to be set out a large part of their young trees, and for a great number of years those trees would be in process of forest growth, and, of course, their land would thereupon become exempt automatically under the provisions of such a law, as he says might be passed through this authority. That was the point of my question.

Mr. DUNLAP (Champaign). I would suggest that if there was growing timber there that is to be used for economic purposes, and the land is not devoted to anything else, I can see no reason why it should not be exempted.

Mr. SUTHERLAND (Cook). In spite of the fact that a coal mine may be operated underneath?

Mr. DUNLAP (Champaign). I think that the object of this is to encourage everybody for different purposes. There might be a manufacturer

in the City of Chicago that would go down into those districts where the land is valueless so far as producing agriculturally is concerned, and buy a tract there and plant a forest, and if he does that, I think that he is conserving a purpose that the State of Illinois ought to encourage.

Mr. GREEN (Champaign). May I interrupt a moment to ask a question of Delegate Sutherland? In fairness to the proposition, what do you think about the use of the word "exclusively" in there as meeting your objection?

Mr. SUTHERLAND (Cook). That might affect it, that is true. I was asking for information from the author of the proposal. That might; I don't know. I am not a lawyer. I was a little apprehensive about this enormous grant of power to the General Assembly. Now, there is another question I would like to ask the delegate. This gives to the General Assembly power to aid reforestation only through one avenue, that is the avenue of taxation. Do you assume now that they have full power through other avenues, for example to grant subsidies for reforestation?

Mr. DUNLAP (Champaign). I do not quite get your idea.

Mr. SUTHERLAND (Cook). Do you think the General Assembly would have the power to grant subsidies for the raising of a certain amount of forest timber covering a certain period of years, a good deal on the same theory that they grant bounties universally for the killing of rodents destructive to crops?

Mr. DUNLAP (Champaign). I don't think they have. I am not a lawyer, and I would not undertake to answer that.

Mr. SUTHERLAND (Cook). Well, you are giving them power to aid, and I thought it well to consider other avenues besides those of taxation.

Mr. DUNLAP (Champaign). I can answer that by saying that we are only opening up an avenue here that has been closed by the Constitution; that if there are any other avenues opened along which the legislature might act, that is not limited by the Constitution, why, of course, the legislature would have authority to proceed.

I want to read a statement here that I omitted, that I think you would be interested in. This is taken from one of the Chicago newspapers of Saturday, December 4th:

"In China a great tragedy is being played. It might be entitled 'The Tree,' for it is because the tree has gone that famine has stricken millions and death swings his scythe where there are no crops for men to gather.

"In the famine district no drop of rain has fallen for eight months and there are no reserves of moisture to maintain the life of growing things, for the trees are gone long ago and when the rains, occasional and violent like our own, fall they run off, as from a roof, carrying the soil away.

"Trees hold moisture by holding soil and by retarding both evaporation and drainage. A treeless land cannot support a great population and if taken over for cultivation will in time lose the soil which is necessary to plant growth.

"China is a warning to this country and especially to the agricultural middle west. Our soil is deep but by no means inexhaustible. Look at our muddy streams, if you would know what is happening to it. In England and northern Europe the streams are clear. The rains are even and comparatively gentle, though copious. Trees are everywhere and they have relatively little wind. So age after age men draw upon the soil and will draw. Not so in this valley and plain land unless we plant trees. They only can save our patrimony.

"But the individual cannot be depended upon to do this. Tree planting does not promise immediate returns to the planter, like wheat and corn, and the farmer of today says, 'Why should I invest for posterity?'

"Therefore the state and the nation must take action; counties and towns also. Standing forests are few, but such as are should be conserved. But ours is a prairie land and if we are to have trees enough to save the soil we must plant them. They should be set along all the roads and highways."

Now, we know that in Southern Illinois, where the streams are that flow down the State, that the denuding of the forests up here in the central part of the State and the draining of the land has caused a flood tide in the lower portions of these streams, and that is one of the things that this convention is attempting to conserve, so I hope that in this they will act wisely in passing some proposition of this character.

Mr. WALL (Pulaski). Mr. Chairman, I regard this as a very vital question in Illinois. The forests of Illinois have long since ceased to be virgin forests. I do not believe there are a hundred acres of land in Illinois today that are still uncleared for the plow, that is virgin timber. What nature put upon the ground in Illinois has disappeared. I live in a timber country, the heaviest forests of the State. I can remember when a boy from eight to fourteen years old that those forests consisted of huge poplars standing thick on every acre, in many of the localities, from two to six feet in diameter, sixty or seventy feet to the first limb; great white oaks with almost the same dimensions; great gum trees and sycamore trees galore, almost numberless in those forests, and they are all gone.

I have in mind an instance where a man had a section of land located in a bottom that overflowed every year from two to twenty feet deep, upon which they could plant nothing because it is not in a drainage district. I know that that man has sold his timber, to my personal knowledge, seven times, and actually the third time he sold it paid him more than the first man paid him because of a raise in value occasioned by a better market for lumber, and, secondly, by the fact that the industries who bought it had to keep going farther and farther south to get their raw material. That land is the best land I ever saw to produce timber. It is fit absolutely for nothing else. It is even now denuded of everything but the scrub brush and the grubs, as the boys called them down there. Even the coal props have been cut off, and there is nothing left of any mercantile value whatever in the shape of timber there. That is practically true of all Southern Illinois.

Now, there are a great number of acres of land down there that is not bottom land, that is worn-out hill land in gullies, worthless for agricultural purposes, that a good many farmers have planted with a species of wood that is called locust, that is used for fence posts. One farmer, more enterprising and farseeing than some of the others in my county, planted seven acres of locusts seven years ago on that land and he supplies all the vineyards and the men who want to build fences with posts and sticks out of that one tract of seven acres. Now, the industries down there that make axe handles, automobile spokes, saw lumber for wholesale and retail purposes, make flour barrel staves, veneer, butcher blocks and things like that, are going to Arkansas, Mississippi, Eastern Tennessee and Louisiana for their raw material. I venture to say that in the seven wooden industries of Mound City and the twelve wooden industries of Cairo, there is not one-fifth of one per cent of their combined material obtained in Illinois, yet the forests of Illinois at one time in that portion of the State were even greater in their richness for the products I speak of than the forests of Louisiana or the forests of Mississippi or of Arkansas. Now, they bring that lumber to Mound City and Cairo by barges; great barges containing some of them millions of feet and some of them less. The average barge of one company is a hundred thousand feet, but the raft may have a million or more feet on it. They must catch a certain stage of water to bring that timber up to these factories in, else they cannot get it there. There are only so many months in the year that they can barge or raft these logs. The prices have gone higher and higher until that is one of the reasons that there is a cessation in the smaller cities of the State in building homes and in building business houses. It is originally because of the cost of the raw material, and secondly, of the finished product. Getting it there is one of the main points. A barge may be lost in the river; the river might rise suddenly, or rafts may be torn to pieces by a storm, and there is so much raw material gone.

Now, there ought to be something done here in Illinois. We ought to have grown in Illinois hundreds and thousands of acres of forests that are the product of man's ingenuity and not the natural product. In other words, all of this waste land, all of this land where the fertility has already been taken out and has been thrown out for seed pasturage, and things like that, ought to be planted in trees. I believe that this proposal should be adopted. I don't see anything in it that prescribes to the legislature the power to such a degree as to not permit them to tax coal under the ground. It says "it shall pass laws for the encouragement of forestry and shall have power to prescribe such methods for the taxation of areas devoted exclusively to forests and forest culture as will develop and conserve the forest resources of the State."

Now, it must be first used exclusively for forest purposes. If land was used for any other purposes, it could be taxed, and the legislature undoubtedly would not unfairly exercise the power given it here so as to permit coal mines to escape taxation by planting trees upon their land and taking coal out from under it. I don't think there is anything here that would circumscribe the legislature so that it could not tax coal.

I think that this is a very important matter, and I think we ought to follow in the wake of other states; and I want to say to you that fifty years from now if there is a dwelling house built with three rooms in it in the United States, the timber that goes into that house, unless the reforestation takes place and takes place at once, east of the Mississippi, the timber in that house will come from west of the Rocky Mountains, because the only virgin timber left today in this country of any great amount lies west of the Rocky Mountains, and, of course, the cost of transportation is such that it almost makes it prohibitive to get it here at reasonable prices, so that this is a question that is serious and that we ought to seriously consider. I think we ought to adopt this proposal.

Mr. CLARKE (Lake). Mr. Chairman, may I ask the gentleman from Champaign a question? What other states have Constitutional provisions like this that you suggest?

Mr. DUNLAP (Champaign). If you will take my word for it, I will give it as I recall what they are. I think there are some six or eight states that have passed a constitutional provision, which, while it may not be exactly like this, gives them the right to assess the lands according to the value of the land itself, without reference to the timber that is upon them, conserving that until it is already to be disposed of or being disposed of, up to the point where they do not tax them at all. Some of the southern states, Alabama, Connecticut, Massachusetts and New York and some of the states up here to the north of us, Wisconsin and Minnesota, I believe, have such provisions.

Mr. CLARKE (Lake). And those provisions are all of them simply for a reduction or a classification of the taxes?

Mr. DUNLAP (Champaign). Or postponement of the tax until the time has arrived when that timber has a market value and then they levy the taxes to make a proportion according to the value of the timber that there is upon it.

Mr. CLARKE (Lake). And those provisions, as you understand it, are all constitutional in those states?

Mr. DUNLAP (Champaign). Yes, sir, so I understand. I have a letter here from Mr. Forbes, that I believe I did not read all of. It says:

"It provides that the taxable income in any year shall be the average of the income of the forest for the past three years, and deductions are made for administrative expenses for the same period. The report concludes with a general statement that European methods of taxation while superior to those prevailing in America, are still far from perfect, and that no one familiar with the subject will think of suggesting that any European system be introduced bodily here. A knowledge of European experience will not relieve us of the necessity of devising a system of taxation of our own suited to American conditions."

That is the reason that I have refrained from putting into this article here anything more definite than that, because I believe that such differences in taxation should be a recommendation after investigation has been made by the forestry department, and that can be made to the legislature.

Mr. CLARKE (Lake). In those states where the taxes are postponed, do they cumulate?

Mr. DUNLAP (Champaign). Yes, they do in some states. Here is the section:

"Six states have more or less recently enacted laws providing for more scientific and more equitable methods of taxing timber property. These are Massachusetts, Connecticut, Vermont, New York, Pennsylvania and Michigan. In these states the general tendency is to substitute for the annual tax on growing timber a tax to be levied and collected at the time the timber is cut. There is therefore a formidable beginning of a tax reform relative to the taxation of forests, which recognizes the difference between levying an annual tax on property yielding an annual income and levying a tax on property which yields an income only after a long period of years."

Mr. CLARKE (Lake). Well, then, they would not be postponed or cumulate, but in those states, as I understand you, would be based on what was gotten from the land when the timber was cut?

Mr. DUNLAP (Champaign). Yes. There is another statement in here that when the property is removed from the land, the tax is considerably larger than the annual taxation of the land would be. They charge according to the stumpage value of the timber in taxing the land, as I understand it.

Mr. GREEN (Champaign). Does classification generally obtain in those states?

Mr. DUNLAP (Champaign). In some of them, yes. They are not general.

Mr. MILLS (Macon). Senator, would the State take possession of these tracts?

Mr. DUNLAP (Champaign). I don't understand so. I think the policy of the State is to have the citizens of the State go into business for themselves as much as it is possible for them to do so, and I see no other alternative along this line except that the State might in the future, if this does not produce the action that they think is necessary, the State might perhaps buy certain tracts of land that are only good for that purpose and plant them as a State proposition; but the State has authority to do that, I take it, without anything in the Constitution.

Mr. MILLS (Macon). When these various tracts are planted with these trees, would the owner of the soil have any right of egress and ingress and the use of the property? And if so, would he be liable for any damage that his crop might do to the trees? What do you know along that line of the matter?

Mr. DUNLAP (Champaign). I take it that this word "exclusively" there was intended by the committee to prevent the use of such land for pasturing purposes. Now, this is not intended to apply except to land that is unfit for agricultural purposes, and that is to be used exclusively for timber growing purposes, and it is supposed that the owner of that land and that timber will take care of it. The legislature, of course, could provide a penalty for the use of that land for a purpose other than that of timber growing, or anything that would be detrimental to it, like turning in live stock or anything of that kind.

Mr. MILLS (Macon). Well then, the idea of the proposal is for the State itself to select these tracts?

Mr. DUNLAP (Champaign). No, I don't think so. I haven't that idea myself, at least. I would take it that the legislature would provide some means by which any land owner having land that he thought was suitable only for timber growing purposes, that he should make application to the State department or whatever department of government is designated for that purpose in the statute for the remission of his taxes upon an area that he was proposing to plant with a forest or for forest purposes, and that it

would require an inspection of some deputized official of the State to say whether he complied with the conditions of the statute or not.

Mr. MILLS (Macon). Then, as I understand you, the State could not come to you, for instance, and say: "Here, Senator, you must sell a certain portion to us?"

Mr. DUNLAP (Champaign). No, I don't understand that at all.

Mr. MOORE (Macon). I would like to ask you one question: Did I understand you to say right that a man would be prohibited from pasturing his stock in his forest land or letting his pigs go through and eat the acorns and the nuts?

Mr. DUNLAP (Champaign). I said this, that the proposition here says: "They shall prescribe such methods for the taxation of areas devoted exclusively to forests and forest culture as will develop and conserve the forest resources of the State." Now, that must be devoted exclusively to forest culture, but it does not say that the State may not provide that that might be used for some other purposes than strictly forest culture if it did not interfere with the growth of the forest, so that it would seem that certain regulations might be under statutes that would permit the use of it under certain conditions, upon the payment of the tax for those certain portions. I would not think for a moment if a man had hogs and wanted to turn them into the forests to eat up the stuff that was there upon the ground, but what he ought to be permitted to let them do that. That, of course, could be taken care of in a statute covering the question.

Mr. MOORE (Macon). Do you contemplate a requirement, for instance, to plant a tree every time a big tree is cut down, so as to maintain your forest?

Mr. DUNLAP (Champaign). That is an administrative problem, Admiral, that I haven't gone into far enough to advise. I was telling you what they were doing in the old countries. I don't know whether it would be available here or not.

Mr. MOORE (Macon). Do you happen to know if Iowa was one of those states that has provision for the planting of trees?

Mr. DUNLAP (Champaign). No, it is not mentioned here.

Mr. REVELL (Cook). Mr. Dunlap, as I understand you, you intend to tell us that a cessation of taxes for a period of time would be a real encouragement to those owners of property, farmers and others, who would plant trees?

Mr. DUNLAP (Champaign). I take it this way, that if a man owned a tract of land, say a hundred or a thousand acres, that when that is assessed by the assessor they do not investigate every little part of that land to see whether it is suitable for growing something or not, but they assess this entire tract according to the law, and he pays just as much on one part of it as he does on the other, but I do not conceive that if there was twenty acres or forty or fifty acres in that tract that could be set out to forest trees, and that there would be no tax upon it, or partial tax upon it until it became marketable, I can conceive that a man who is at all interested in the future would take the means to plant that out to forest trees and grow them.

Mr. REVELL (Cook). And it is your thought that possibly the attitude of mind of a legislature would be to segregate that twenty acres, we will say, and then proportion the total assessment on that twenty acres and make the assessment one-fifth less if his total holdings were 100 acres, or would it be a special application?

Mr. DUNLAP (Champaign). I think it would specially apply to that tract only.

Mr. REVELL (Cook). It seems to me from what you say that such a tract now is considered of very little or no value, and that there would be very little encouragement to a man merely because of his savings in taxes to proceed with the planting of trees. In other words, that if he thought the planting of trees would be of value to him, he would proceed without a thought as to the small amount of taxes there might be on that amount of property. I am in favor of some such thing as you say, but I do not think you go quite far enough.

Mr. DUNLAP (Champaign). Maybe not, but I think the legislature is invested with authority along most other lines without any special authority being given here, and this is the only one in which I think the authority of the legislature is limited that would apply to forest tree culture.

Mr. GREEN (Champaign). Mr. Chairman, the suggestion in this proposal appeals to me, but we are really more confused than helped in the direction in which we go, and I would be glad to have the author of the proposal enlighten us about this. It may be it can be improved. Let us read it a minute:

"The General Assembly shall pass laws for the encouragement of forestry." I take it that nobody would argue that was a bad proposal. There may be objections that I have not seen. "The legislature shall pass laws for the encouragement of forestry." It proceeds then to lay out what the author believes will be laws of a character that will encourage forestry, and for the purpose of having my own judgment rectified if it is wrong, this is the way the rest of it appeals, I believe, to a fair consideration—"and shall have power to prescribe such methods for the taxation of areas devoted exclusively to forests and forest culture as will develop and conserve the forest resources of the State."

Now, the questions that have been asked emphasize at once the almost impossibility of having an area devoted exclusively to forests or forest culture. Only two or three exceptions are noted. For instance, to allow stock to run through the trees. That would immediately deprive it of the place in the catalogue that it was exclusively devoted to forests. And, indeed, in this State now there is considerable agitation about these game preserves which are kept only for hunting grounds, and that would undoubtedly remove it from this field of being devoted exclusively to forests and forest culture. After all, the thing is purely a proposition for the classification of property devoted to forests or forest culture for taxation, and if we all of us forget any prejudices we have against that—I don't know that some of us have as much prejudice as we used to have—wouldn't it be better just to say it this way, "and may classify for taxation areas devoted to forest or forest culture?" That is in the nature of an interrogation rather than an argument, but it would seem that if the form in which it is presented here, with the clause which prescribes the power of the legislature to exempt it from taxation, or there might be a different method where it was devoted exclusively to forests, practically takes out all of the area now committed to that industry, and that being mentioned, it might be treated as a limitation upon the power of the legislature to do anything else by taxation but encourage the industry. And it might therefore be better if it were omitted entirely and simply read that "the General Assembly shall pass laws for the encouragement of forests."

Now, being in sympathy with the proposition—those of us who are—I would like to inquire of the author of the proposal if he does not believe that with more study, and by meeting the question absolutely frankly, that after all the idea in his mind is that a different method of taxation be presented which amounts to one or another form of classification, and we simply say so, and I do not believe there are many of us that would find any objection to saying it that way if in fact that is what we want, and wouldn't that, after all, do away with the objection just raised? All those things must necessarily enter into the legislative mind when they frame the laws, and if we put it in the Constitution in this form, might we not prevent the very thing we are really trying to do?

Mr. DUNLAP (Champaign). Mr. Chairman, I will say that the word "exclusively" was put in there by the committee so that property or land should not escape taxation simply because it had a few forest trees on it and was used for a purpose other than the growing of forests.

Mr. GREEN (Champaign). But might there not be a class where they would not want it exempted entirely, but would at least want to reduce its classification?

Mr. DUNLAP (Champaign). I see the point that you are driving at in that. I am not prepared to say that the word "exclusively" as used there

should absolutely remain; some modification of it perhaps might be made. But we do not want to provide any means by which the legislature might pass any such act to evade the proposition of encouraging the growing of forestry. If you leave out the word "exclusively" to forests, and are willing to leave it to the legislature, and have it read, "shall have power to prescribe such methods for the taxation of areas devoted to forests and forest culture as will develop and conserve the forest resources of the State," why you would be adopting the view that the committee had in the first instance, but the word "exclusively" was incorporated there so that the members of this Convention might feel and know that it was not the purpose to exempt any land from taxation that was used for other purposes than forest culture. It might be that instead of using the word "exclusively," that "devoted mainly to forests" would be better, but I think it would be better if it were not stricken out altogether, and leave it in that form. Then it would be up to the legislature to prescribe exactly what they intended it to mean. I have no objections to the word being stricken out, so far as I am concerned.

Mr. LINDLY (Bond). Let me ask you a question? Could they exempt this from taxation under the section of the revenue act which prohibits anything except what is named in there to be exempted from taxation?

Mr. DUNLAP (Champaign). I think it could be exempt from taxation by that part of it, but I think it would have really more force and effect if it were put in as an encouragement to forestry, to put it in as a separate section in some article, either the revenue article or some other. I have no objection to the word "exclusively" being stricken out, as I say. It is only put in there so that there might not be any mistake as to what the purpose of the committee was. If it is thought best to strike it out on second reading, why, it might be done then. We can give the matter a little further consideration.

Mr. KERRICK (McLean). May I ask the gentleman a question? You have a notion of what was done in European countries, particularly in France. That was done under government supervision entirely and by the government itself?

Mr. DUNLAP (Champaign). Yes.

Mr. KERRICK (McLean). Your position, as I understand it, is to encourage individuals to do it?

Mr. DUNLAP (Champaign). Yes.

Mr. KERRICK (McLean). There is nothing in your proposition which would permit the legislature to provide by legislation that there should be a forestry commission having that power by which it should obtain land and do the planting and conserving forest land. It will encourage people who have land that is suitable for growing trees but not suited for anything else, by exempting them from taxation, encourage them to plant trees, is that it, or would it include the State going into the business of reforesting the denuded land and attending to the growth and care of the land?

Mr. DUNLAP (Champaign). As I understand the authority of the legislature, they have the right now to go into that business if they want to, to buy land and grow forests.

Mr. KERRICK (McLean). But as I remember the reading, your proposition relates almost exclusively to the power of the legislature to exempt from taxation as a means of encouraging the use of these lands for tree raising. Does it go any farther than that?

Mr. DUNLAP (Champaign). There are two parts to the proposition, and one is that they shall pass laws for the encouragement of forestry. I understand that it might relate to individual ownership or might relate to State planting. "And shall also have power to prescribe methods of taxation."

Mr. KERRICK (McLean). That is only one of the means of reforesting, the exemption from taxation.

Mr. DUNLAP (Champaign). The reason that was put in here is that the power of the legislature is limited under the revenue article, and under

that article they would not be able to exempt areas devoted to forests from taxation.

Mr. KERRICK (McLean). Now, Senator, you have told what they have done in other countries. It is true, is it not, that there are a number of states in the union now that do encourage, and in fact, the State itself does a great deal of tree planting on land that has been cut off? Wisconsin, for instance, is one of them. What statistics have you on that subject?

Mr. DUNLAP (Champaign). I haven't anything on Wisconsin at all, Senator.

Mr. KERRICK (McLean). I know there was a good deal of discussion carried on some years ago about the Federal Government going into the matter of reforesting certain land. I don't know what became of it, but there was a great deal of talk about it being done. But in a general way, what is your information as to what is being done in the country now?

Mr. GREEN (Champaign). Here is the Wisconsin constitution; it is a little different. "Provided further, that the state may provide moneys for the purpose of acquiring, maintaining and preserving the water powers and the forests of the state."

Mr. KERRICK (McLean). I have seen illustrations of what has been done in the growth of trees shown, and the length of time it took to produce pine trees of a certain size, in Wisconsin. I did not know but what there might be some information derived by you that would be helpful on what has been done in other states.

Mr. COOLLEY (Vermilion). Mr. Dunlap, do you believe that any man could afford to devote his land to such a purpose for a long period of years?

Mr. DUNLAP (Champaign). Not if it is good for agricultural purposes, I don't think so, but we know that there are many places where land is not fit for agricultural purposes, where it has been washed and become gullied, or if it is along streams where it is overflowed at certain times, the land is not suited for that. It is suited to forest culture only.

Mr. COOLLEY (Vermilion). As I understand it, you have in mind isolated spots, not large areas of land?

Mr. DUNLAP (Champaign). Oh, yes, there are large areas of land of that character. The statement was made here by the forestry department that there are five or six million acres of land in Illinois better adapted, from the economical standpoint as well as the natural standpoint, to grow forests than to grow any other product.

Mr. COOLLEY (Vermilion). Do you think the average individual could afford to grow a forest for profit?

Mr. DUNLAP (Champaign). As I said, the best land is not suitably adapted to agriculture. Outside of that, I think he could. I think it would be false economy for a man to take land that was worth \$100 an acre and devote it to forest culture. Now, there is a member of this Convention who can give you some facts about the value of land, about the value of the timber that is taken from it in fifty years. I refer to Mr. Rinaker. He was telling me about some land that his father owned, covered with scrubby forest, and it was allowed to grow up and became of considerable value.

Mr. COOLLEY (Vermilion). I was wondering whether an individual would engage in such a business in good faith, whether the inducement would be sufficient?

Mr. DUNLAP (Champaign). I cannot answer that, doctor, except to say this, that many men who have studied this question have been recommending the same thing for fifty years or more in this country, looking forward to the future, and that if we are to do anything, we ought to leave the door open for something to be started at this time.

Mr. WALL (Pulaski). There are a number of farmers, I think most of them in southern Illinois, and some in the northern part of Illinois and Central Illinois that have land that is fit for nothing at all for agriculture or horticulture, and they are paying taxes on it all the time. They are getting nothing out of that land whatsoever, it is a burden to them, it is good for nothing. It may not be where you live, but there are thousands and thousands of acres of that very kind of land in southern Illinois, that

the owners of the land have been paying taxes on, and they have never got a dollar of income from it in any way. Now the theory of the proposal is that they should be exempt from taxation, for ten or twenty years, whatever the period is, and under this proposal the legislature has the power to have them partially or totally exempted, so that it would exempt to some extent the necessity of paying taxes on unproductive land and furnish an incentive to plant the land as a forest in the hope that after a while they will get something out of it. I cannot see that the proposal does any harm. It is true that the State is not going into the business, but there is nothing in the proposal which prohibits the State or the individual from going into it. The lands are taxed at the same rate, but not assessed an equal amount of money, a good many of these lands are assessed at one-half the value, at five dollars an acre, some at ten, some fifteen, and I would say to the delegate from Peoria that the average would be about eight dollars per acre. I can buy some of those lands now, and buy them at full value at ten dollars, in fact I have thirty acres of that kind of land that I will sell to any delegate in this Convention for thirty dollars an acre. I know others that have a very large tract of that kind of land, the land is absolutely worthless, because you cannot put a crop on it, it overflows and that is the reason it will never grow a crop, unless it is drained, and the people are too poor to pay the expense of doing that now. There will have to be a wonderful development in that locality, in order to pay the expense of the drainage, this locality, which includes some sixty-five thousand acres, is so difficult to farm, that the cost has been calculated to be prohibitive up to this time. That land if planted tomorrow with trees, in thirty years, would be educated forestry that we are turning out now in the way of college education, would produce quite a revenue to the owners thereof.

Mr. COOLLEY (Vermilion). What kind of trees?

Mr. WALL (Pulaski). Well, I would say poplar, oak, and locust trees, trees of that sort, gum. I would say the owners of this land, if they could be exempted from taxation, would be greatly encouraged to see that after awhile—having never gotten anything from that land, or off it since they owned it, or their predecessors, they could see a light that after awhile they would be able to take advantage of the opportunity to save the cost that they pay the state and county on the land during the interim when they were receiving nothing from it.

Mr. LINDLY (Bond). How long does it take to grow these trees?

Mr. WALL (Pulaski). I have not been educated in forestry, I don't know. But I do know this, I know the second growth comes every ten or fifteen years.

Mr. LINDLY (Bond). Well, I know I planted walnut trees, and soft maples and hard maples, and elms forty years ago, and there is not a tree in the whole bunch fit to saw except the soft maple and it will be forty years more before the others, any of them, are fit to saw.

Mr. WALL (Pulaski). I will say this as to locust, I am not familiar with that, but in seven years I know of land where trees grew to such an extent that you could make two fence posts out of each piece of tree.

Mr. REVELL (Cook). It seems to me that this proposition either goes too far or does not go far enough, and I think it is so important that it should have more of a consideration from the Committee on Agriculture. I believe also that it is important that the State of Illinois could wisely arrange to appropriate money necessary for the encouragement of forestry in this state. I believe that there is not a man in this hall who does not think that if the proper way is found, something ought to be done along those lines and done as early as possible. I believe that this proposition should have further consideration at the hands of the Committee on Agriculture, and probably it will come back to this body in a way that would receive the most, if not the unanimous consent of this body, and if it is a proper motion to refer it to the Committee on Agriculture, for their further report thereon.

Mr. DUNLAP (Champaign). The motion is not in order in the Committee of the Whole to do that. I would suggest to the gentleman from

Cook, if he would care to do that, that he study the proposition as reported under the first paragraph or clause, and I think he will say that it did have authority to buy the land if it wanted it.

Mr. TRAUTMANN (St. Clair). Don't the State have that power now?

Mr. DUNLAP (Champaign). Yes, I take it that it does. The only object in putting this into the Constitution is to call the special attention of the legislature to that feature, while we are giving them power to prescribe some method of taxation. Now it is possible the word exclusively ought to be taken out of there, then it would permit the legislature to assess property devoted to forest trees according to whether it was used partially for some purpose or not, but my own idea was to exclude all other purposes, but it has been suggested here and I am perfectly willing to leave the word exclusively in there, I think it meets the requirement, but in order to let the membership determine whether they want that in or out I move to strike out the word exclusively, but I shall vote against it myself, as I believe it should not be. That is for the present. If it is thought to be necessary, it can be stricken out on second reading. I make the motion that the word exclusively be stricken out.

(Amendment adopted.)

Mr. HAMILL (Cook). I raise the question of quorum, and ask for a roll call.

(No quorum present.)

Mr. DUNLAP (Champaign). There being no quorum present, I move that we now recess and report progress.

CHAIRMAN TANNER. There being no quorum present, the committee will rise and report progress.

President Woodward presiding.

Mr. TANNER (Clay). The Committee of the Whole, having under consideration the forestry proposal reports progress, also that there is no quorum present.

PRESIDENT WOODWARD. The question is on the adoption of the report of the committee.

Mr. HAMILL (Cook). The Committee of the Whole present a report that there is no quorum, so it obviously cannot act on the report. There being no quorum present no action can be taken by the Convention.

Mr. DUNLAP (Champaign). The report can be made to the Convention, and then until the point of order of quorum is made the Convention is in session.

PRESIDENT WOODWARD. The Chair is disposed to hold that the point of order is not well taken. The question is on the adoption of the committee, reporting progress and asking leave to sit again.

Report adopted.

PRESIDENT WOODWARD. What is the pleasure of the Convention?

Mr. SUTHERLAND (Cook). I move that we adjourn until eight o'clock tonight.

Mr. MIGHELL (Kane). As a substitute, I move that we adjourn until nine o'clock tomorrow morning.

Substitute adopted.

TUESDAY, DECEMBER 7, 1920.**9:00 o'clock A. M.**

Convention met pursuant to adjournment.

Prayer by the Chaplain.

The President in the chair.

THE PRESIDENT. The journal of Thursday, December 2, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction.

Mr. RINAKER (Macoupin). Mr. President, I notice that in the record of the roll call had on the matter of the apportionment, the gentleman from Chicago, Mr. Revell, is recorded as voting for a provision that possibly he was not for, and I am not recorded as voting. I was present and voted in the affirmative on that proposition. I ask that the record be corrected accordingly.

THE PRESIDENT. Delegate Rinaker moves to correct the journal by striking out the name of Mr. Revell who is recorded as voting in the affirmative in the first roll call recorded in the proceedings of December 2, and to substitute his, Delegate Rinaker's name as so voting. If no objection is made, the record will be corrected accordingly.

Mr. WHITMAN (Boone). Mr. President, I notice in the proceedings outlined in the journal of Thursday, December 2, it is stated that at the hour of 11:55 P. M., Mr. Gale now moves that the Convention do adjourn until 3 o'clock Monday, December 6th. According to my watch, it was 2:15 A. M., Friday morning that we adjourned. I would like to have the record corrected to show that we are on the job and doing out duty.

THE PRESIDENT. And the delegate from Boone moves to correct the record which shows that the Convention adjourned at 11:55 P. M. and to substitute 2:15 A. M. What shall be done with the motion to correct the journal offered by the delegate from Boone?

Mr. DEYOUNG (Cook). I think the suggestion of the gentleman from Boone is entirely appropriate. Friday is usually execution day.

THE PRESIDENT. What shall be done with the motion of the delegate from Boone? Are there any remarks? If not, the question is upon the adoption of the correction suggested by the delegate from Boone.

(Motion carried.)

THE PRESIDENT. Are there any further corrections? If not, the Journal of Thursday, December 2, 1920, will stand approved as corrected, and it is so ordered. Mr. Secretary, the President is in receipt of a communication which the author requests be submitted to and read to the Convention. I therefore ask that the Secretary read the communication.

(Communication from Mr. Hamill read.)

SPRINGFIELD, December 6, 1920.

My Dear Mr. President:

When I tendered orally to you last Friday my resignation as chairman and member of the Committee on Phraseology and Style, you asked me to keep the matter under advisement until today and, in consenting, I said in the meantime you could consider my resignation in your hands for such action as you thought wise. My offer to resign was not impulsive or prompted by pique. I had for some time anticipated the action of the Convention on apportionment and had reflected seriously and dispassionately on my appropriate action. Nor has the further consideration requested by you and earnestly given by me changed my conclusion.

The Convention last June adopted a section providing for 153 representatives in the lower house from districts proportioned to the voting population, subject only to the limitation that no county should have more than 76 members. While I thought representation based on population fairer than that based on the electorate, I expressed myself as willing to support the provision as adopted if the final limitation were removed. Thereupon my motion to reconsider the vote approving the section was carried.

When the conference committee representing the down State delegates and the Cook county delegates separated last July, there was between them only the one unsettled issue on house apportionment, of whether population or electorate should be the basis of representation. Because I then reasonably hoped that the intent to limit Cook county in the lower house had been abandoned, I was willing to give my summer months to the labor of my committee.

There were no conferences between committees representing the contending theories after July until nearly midnight of Tuesday, November 30, when Messrs. Rinaker, Todd and Mighell, coming from a conference of down State delegates, met General Davis and myself, who, with Mr. Traeger, had been selected that evening at a meeting of Cook county delegates, to treat with such committee as might represent the down State delegates. At that meeting of committees we were asked if we could approve a county representation plan and replied in the negative, at the same time informing the gentlemen of the other committee that by the terms of our appointment we had power to agree on any plan of apportionment which did not put a limitation on Cook county in more than one house. We were then told that at the meeting of the down State delegates a strong sentiment in favor of county representation had developed and that such a plan would probably be proposed to the Convention with an alternative proportionate representation section to be separately submitted to the people. We replied that we had no authority to approve such a proposition and were certain it would not have favorable reception by the Cook county delegates. As the hour was late and the down State gentlemen said they would not be prepared to proceed next morning according to program, we separated. Neither at this meeting nor at any other time since July were we asked to submit any proposal. On the contrary, the attitude, implied if not expressed, of the down State committee was that no plan which omitted limitation of Cook county in both houses could be considered. No further meetings of the conference committees were called or had, nor was I informed, save in general terms, of the provisions of the proposal of the down State delegates until it was offered to the Convention on the afternoon of Wednesday, December 1.

I have made this recital to correct an erroneous impression which may have been given by expressions from the floor that the Cook county delegates had not helped to solve the problem confronting the Convention. When I told you last Friday that I desired to be relieved of the work of this committee you said you thought I misconceived the effect of the action of the Convention, and asked that I give the matter further thought. This I have done, with the result that I am confirmed in my opinion of the right course for me to pursue.

In reflecting on the matter I have considered the possibility that the plan might be so modified that neither alternative on submission would have advantage over the other, and in what follows I assume this would be done.

For eleven months, at a pecuniary and health sacrifice, greater than is perhaps known, I have given almost exclusive attention to the work of this Convention. While others were relieved of duty during a four months recess I worked practically every day and generally all day that the output of my committee might meet the most exacting criticism. This I did gladly and with zest because I hoped I was contributing to the making of a Constitution which would merit not only my own approbation, but as well the approval of the people, and serve for generations the welfare of my native and well loved State. Since the action of the Convention early in the morn-

ing of the third instant this hope has fled. I do not believe that a Constitution containing a legislative apportionment provision as now adopted can, or ought to, be ratified. If I should continue in this laborious position the most I could expect of my work is that it might possibly at some future time be of some small help to other draftsmen. While my interest in the subject is intense, I cannot afford to spend my time in writing a text book on Constitution Drafting. I am neither young enough nor old enough to be held by an academic interest alone. While I have not been without hope that the work we were doing should some day help to guide others with like problems, my real inspiration has come from the belief that our labors would inure immediately to the advantage of the people of our own State. I do not believe that with this inspiration gone I can drive myself to the enthusiasm necessary to good work.

That the proposed plan departs from all standards of sound Democratic or Republican government is clear when the one fact is borne in mind that the representatives of 2,213,460 people will be able to control the lower house as against the representatives of 4,271,659, almost twice the number. When it is further considered that the portions of the State to which it is thus sought to give added power are for the most part those counties which during the past decade have lost population and are inhabited by those who are thought by some to be the least enterprising, energetic, and progressive parts of our people, the scheme must be utterly condemned, quite apart from considerations of fair treatment to the larger counties.

The determination to limit Cook county is explicable only on one or two theories, either greed of office or fear of oppression. Though in the debate that note was sounded, I am unwilling to believe that any considerable number of the delegates were actuated by the desire to increase the number of jobs to which they or their constituents might be eligible. The other theory can be explained only if the down State men view the people of Cook county as something foreign or alien. I think I know the sentiment of the people of my county and I know they have no such feeling toward the people of the rest of the State, but my neighbors are human and, because human, will certainly in time reciprocate the sentiments entertained for them. If the people of the State are to look upon the people of Cook county as the people of one country in Europe look upon those of a neighboring country, with the consequent rivalries, jealousies, antipathies and enmities, their sentiments will be returned in kind and all hope of harmonious political life is at an end. If, having these feelings, a minority undertake to dominate a majority, who are made to feel that they are alien, that minority invites political disaster. The proposal to submit separately a section providing for proportionate representation aggravates rather than palliates this situation.

When the new Constitution is submitted there will necessarily be raised for popular discussion the proposed apportionment but, unless there is a separate submission, that issue will be blended and somewhat confused with others and there will not be a sharp sectional division. With the separate submission, however, the campaign will certainly be almost wholly concerned with apportionment and the down State orator will exhort against Chicago domination of the State, while the anger of the Chicago people will be stirred by appeals to prevent the future political strangulation of Cook county by the country minority. Such a sectional campaign has, I believe, the most dangerous possibilities. The natural lines of political cleavage are economic, not geographical. Economic lines cross cut every part of the State and, unless purely artificial issues are injected, will determine the alignment of parties.

My second objection to the proposed separate submission is that it will submit to today's majority the right to control tomorrow's majority. If all the people of down State should vote one way and all the people of Cook county the other way (an improbable event, and used only for illustration) and the down State vote should prove the larger, there would be inaugurated a system under which the people of Cook county, though in after years they might be double the population of the rest of the State, would have no

constitutional method of securing self-determination. In one sense, any generation which adopts a Constitution imposes its will on future generations, but provision is always made so that those who follow, if they really wish, may by constitutional method alter the Constitution. But this plan contemplates vesting in today's majority the control of the legislative machinery through which alone future change can be initiated, so that if at a later time today's minority should become a majority it will find itself without constitutional means of asserting the control which its numbers require. I cannot give my assent to a scheme of government which has in it the seeds of its own destruction.

The whole plan of limiting Cook county is futile and silly unless there is a real temperamental difference between the two parts of the State. If there is such a temperamental difference the plan is worse than futile and silly, it is wicked. The pages of history have been vainly written in blood if they have not taught minorities that they cannot long control unwilling majorities.

An analysis of the vote by which this measure was approved shows that it would have failed but for the six votes which would have been in the negative if the down State members of the General Assembly had not repudiated their sworn obligation to redistrict the State. This consideration will not tend to appease the people of Cook county. Notwithstanding this, I am not now questioning the right of the majority of this Convention to frame the proposed Constitution as they deem best, and I would cheerfully yield my convictions to majority opinion on any matter less fundamental than that under discussion. I am so convinced, however, of the menace involved in the political blunder that has been made that I can see no escape from doing all I can to defeat ratification of the Constitution. Feeling thus, I also feel that it is unfair longer to stay at the head of this committee. Those who are now charged with the responsibility for this Constitution are entitled to have someone in sympathy with them do the work of phrasing their intent. With my declared purpose of opposing approval of their production the majority delegates would be more than generous if they did not question my sincerity in any changes I might recommend in form. Because, therefore, I am unwilling further to sacrifice my own convenience and health to what seems to me a purely academic undertaking, because my inspiration and enthusiasm have been dissipated, and because I am convinced that the gentlemen who have now assumed responsibility for the Constitution will be better satisfied if one in sympathy with their aims should be chosen to give them expression, I am constrained to insist that my resignation be now accepted. I feel the freer to take this course because the work of the committee is well under way and the assistants now in the employ of the committee are particularly well qualified for their work. I am confident no difficulty will be found in filling my place.

May I say in conclusion, that it is with a grief too deep for expression that I part from a labor in which my heart has been, and that the kindly feelings for you and the others with whom I have been associated during the past year are in no wise diminished by this difference of opinion.

I shall be gratified if you can find it consistent with your views of the proprieties to present this letter to the Convention that it may appear in the report of proceedings.

With the most profound regret that my views and those of the majority seem to be irreconcilable, and with the highest regard for you, I am, my dear Mr. President,

Yours respectfully,

CHARLES H. HAMILL.

To

Honorable Charles E. Woodward,

President of Constitutional Convention.

THE PRESIDENT. The chair also asks the Secretary to read the President's reply.

(The President's reply read.)

December 7th, 1920.

Honorable Charles H. Hamill, Constitutional Convention Chamber, Springfield, Illinois.

My Dear Mr. Hamill: You leave me no alternative but to accept your resignation, much as I regret your action.

While your resignation is prompted by reasons which to your mind are impelling, yet I am sure you appreciate that the business of the Convention has just now reached the stage when the work and reports of the Committee on Phraseology and Style are most important. It is therefore most unfortunate that you have felt compelled to resign from the committee at this time.

I am glad to be able to express to you the confidence the Convention has in the work you have done, and its deep appreciation for your splendid service on this important committee during the time you have so unselfishly and conscientiously devoted to it.

With highest regards of personal esteem, I am,

Very respectfully,

CHARLES E. WOODWARD, *President.*

Mr. REVELL (Cook). Mr. Chairman, does this resignation call for any action on the part of the Convention?

THE PRESIDENT. The Chair is advised that it does not. The communications were read for the information of the Convention.

The Convention will now resolve itself into the Committee of the Whole for the purpose of further considering the matters under general orders. The first matter is that of proposal number 355 relative to the encouragement of forestry. The Chair designates Delegate Tanner to act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole, with Delegate Tanner presiding.)

CHAIRMAN TANNER. The question is upon the amendment offered by the delegate from Champaign, that we eliminate the word "exclusively" in the fourth line of the proposal.

Mr. DUNLAP (Champaign). Mr. Chairman, I suggest for the information of those who were not present yesterday, that the clerk read the proposal to the committee.

(Proposal 355 read.)

Mr. DUNLAP (Champaign). Mr. Chairman, it is perhaps a little unfortunate that after discussion of an hour and a half at the previous session we did not have an opportunity to vote upon this proposition on account of there not being a quorum present, which was not disclosed until the end of that time by a roll call. I am not going to undertake to repeat the arguments that were advanced in favor of this yesterday, unless they are considered necessary by questions that may be asked from the floor, but I will say this much:

I read from the first biennial message of the Governor of the State to the legislature at two different sessions. I will read the first one that was presented by Governor Lowden, which is very brief and has the kernel of the whole matter in it.

"I wish to call your attention to the fact that there are many hundreds of thousands of acres of land in this State better suited to forestry than to anything else. Private owners of land, however, will not content themselves with a crop which does not mature for half a century. They will, therefore, naturally not plant these acres to trees unless they have encouragement from the State. It is possible that if all the now waste land of Illinois were planted to trees, in half a century they would produce timber enough for our own needs. Besides this, such forests would help to conserve moisture, would diminish the damage from overflow, and would tend to prevent the washing and gullyng of our rolling lands. The State should adopt a policy to encourage the reclaiming of these waste acres."

I will say that the legislature at the first session provided for a department of forestry and a forester was named at the second session. So that there has been a survey or a partial survey of the State made by the forestry

department which will be reported to the General Assembly at its next session in January. So that preliminary studies have been made to take care of this question.

Now, the necessity for this I think is apparent to everyone who has studied the question at all. The deforestation of all the areas here in the middle west and in the lake region that has been going on for the last seventy-five years has produced a depletion of timber that those who are engaged in manufacturing or in building know has occurred from the increase in price. This large increase in cost is due to the fact of transportation, that transportation must be from a much greater distance and now our lumber comes from the extreme south or it comes from the northwest beyond the Rocky Mountains, so that it makes the cost of timber in some instances prohibitive and generally very expensive. In Illinois, as I stated yesterday, where there were forests fifty years ago, the hills have been denuded and no forests remain. The report of this investigation by the forestry department shows that there are between five and six millions of acres in the State of Illinois that could be better devoted to planting trees than it could to agricultural purposes, and in order to devise some means of encouraging the reforestation of such areas in our State, brought about the introduction of this resolution. This recommendation comes from the Department of Forestry. It has been modified some by the Agricultural Committee, and is now presented to you for your consideration.

Now, the different methods of taxation I might refer to very briefly that may be in vogue in many different states of the union. I will say that these states passed laws with reference to forestry more or less covering the subject: Alabama, Iowa, Connecticut, Maine, Massachusetts, Oregon, Nebraska, New Hampshire, New York, North Dakota, Rhode Island, Vermont, Washington and Wisconsin. So you see that a good many states have shown their interest. Scientists have recommended that some action be taken, and point out the calamity that will befall this country unless they do take some action along this line. I might remark that in the countries of Europe, many of them, they have considered this matter very thoroughly, and they have taken definite action a good many years ago. Switzerland as far back as seven hundred years ago took charge of this proposition, and I am told that the forests there are in much better condition than they were at that time, and yet, the country has been supplied with timber for its needs. Now, in those sections of the country they have deputies who will go into a tract of land and indicate what trees may be cut out by the owner and a tax is imposed, generally an income tax. I will read very briefly from this report on the taxation of forests in Europe, so you can get some idea:

"The European Tax System in General.—There is a tendency among the progressive states of Europe toward agreement upon the general outline of tax system. As a rule the tax systems of European states are based primarily upon income, rather than upon property as in the United States. The general income tax is normally the basis of the system; the tax is usually progressive, the rates increasing with the size of income. There is always a minimum income exempt from taxation. Supplementing the income tax there is apt to be a property tax, or a system of yield taxes, the purpose of which is to place an extra burden of taxation on what we may call funded incomes, that is, incomes derived from invested capital, as distinguished from incomes due to personal service. The above is, of course, a very general statement and numerous exceptions will be found."

Now, the income tax as administered there to the forest system:

"The income from forestry is subject to the income tax where such a tax exists. As a general rule it may be stated that all receipts, either in money or in kind, are subject to the tax. This includes major cuttings, intermediate yields, and incidental uses, and includes also ordinarily the money value of any forest products taken by the tax payer for his own personal use. The taxable income is normally the net income, deductions being made for the ordinary costs of administration and management. Deductions are also allowed for interest upon debt and to some extent for depreciation of the capital. Costs of reforesting cut-over areas are regarded

as expenses and deducted. Costs of establishing new forests, however, are ordinarily not considered expenses, but rather investment of new capital, and are therefore not deducted. The income tax, unlike the ground tax, is a personal tax. The rates of the income tax vary with the size of the income and are different in different states. It is seldom that the maximum rate exceeds 5 per cent."

Now, I might state that the necessity for something of this kind is indicated by the complaint that is made by many of the publications of this country, magazines and books. The manufacturer of cartons for packages for goods and so on is securing an enormous amount of wood pulp. I am told on reliable authority that one issue of a Chicago daily, the issue of last Sunday, that the cost of the paper was between eighty and ninety thousand dollars. You can judge from that the amount of wood pulp that is necessary in all the publications in this country, and it is a surprise to me as indicating a shortage along that line. I viewed with some doubt the question as to whether there really was a shortage of newspaper fibre or wood pulp, as has been stated, thinking perhaps that it was like some of these other shortages that occurred during the war and since the war, of sugar and wheat and other things that are simply a camouflage to advance prices, but when we consider that one paper in one issue will put out between eighty and ninety thousands dollars, we must consider that the amount of wood pulp necessary for publications alone in the United States must amount to an immense quantity.

So that the need of this I think is absolutely apparent. The buildings that are erected, the use of material in manufactured articles over the country, and those who travel about the State can see upon the occasion of their travels, lands that were at one time covered with forests of very large size, those forests have entirely disappeared. I spoke yesterday of an instance that came under my own observation in Union County, Illinois, where fifty-three years ago I had viewed the forests from the top of the highest hill that there was in that county, and in all directions could see nothing but forests, except occasionally a small clearing where some farmer had cleared a space to begin his operations in agriculture, and two years ago I was at that same spot and looked over those same hills and there was not a forest in sight in all that area as far as the eye could reach, except some straggling timbers along fence roads. That is one instance of what has been done in the Ozark Hills of Southern Illinois, and that is true I take it in all of the forests of the State, so the necessity for doing something along this line to provide for the future is apparent to all of us.

The question is how shall we go about it? In my own judgment and that of the committee presenting this resolution, we have provided here that the General Assembly shall pass laws for the encouragement of forestry in the State. I think that the State has authority to purchase lands and plant forests without any specific grant of power in this Constitution. Now, the second phrase of this proposal provides that they shall also control the matter of taxation of these forests where they are used exclusively for forests or forest culture. So that the only limitation that I know of in the Constitution against the action that is required or desired is that of the revenue and taxation article of the Constitution. So I think that the only thing that we need here is that we should have that exemption or grant that authority to the legislature.

It might be said that this could be cured in some other way, that it might be taken up in the revenue section and arranged there. Possibly it could, but I think the subject is of so much importance to the people of this State and to the future generations that are to come that some specific mention and authority should be made here and granted to the legislature in a specific section. I think this would cover the matter of taxation so that they could tax the forest as it was cut off, tax the product, the income from that and exempt the land if that is thought best. The subject is before you. I made the motion to strike out the word "exclusively" for forest culture, hoping that that would bring discussion upon that particular phase of it. I myself am content with what the committee may see fit to do.

Whether to strike that out or leave it in, it is not material. I believe the legislature will take care of that proposition when it is put up to them in a way that will meet the approval of the people of the State and the matter of whether that word is stricken out or not depends upon what you think of whether the legislature should be given that authority or not. If it is left in, the right to exempt land or to provide for some different system of taxation from that provided in the general revenue article, will apply only to such areas as absolutely come within the prohibition that it shall be exclusively devoted to forests or forest culture.

I think that is all I care to say at this time, unless someone cares to ask me questions.

Mr. COOLLEY (Vermilion). Mr. Chairman, in order to explain my vote, and I do vote upon this question, I wish to call your attention to a few things that are well known to most of us. It is a well known fact that no private individual can engage in the development of a forest for profit. This may be true, that the States owes to itself that duty. We all know the value of forests, and we do know that it would be absolutely impossible for an individual to develop a forest for profit. We know that these lands are now assessed at their value. They are of little value; that matter is taken into consideration. We know that this would open an avenue for petty fraud in the evasion of taxation. We know that we should not classify here lands for taxation because of the fact that fraud would develop in spite of everything that could be done. And since it is my intention to vote against this measure, I take this opportunity to explain that vote.

Mr. GALE (Knox). Mr. Chairman, it seems to me that this proposal simply indicates that a proper revenue article in the Constitution would permit to the legislature such latitude that it could classify property, both real and personal of all kinds, for taxation purposes. This Convention has gone on record as opposed to the classification of property for taxation. Now, an attempt is made to seek out one class of property and exempt it from taxation, and there is nothing to show that even today it is any better to single out lands devoted to forestry than to single out lands for some other purposes and exempt them from taxation because the use to which they are put is a use which may eventually benefit the State.

As was suggested by the delegate from St. Clair yesterday, it might well be that lands which were being built up to a particular fertility and productivity with the use of limestone, for instance, might well be exempt from taxation during such period of non-productivity and building up. It might well be that lands under process of reclamation by drainage or other schemes might well be exempted from taxation, but this is an attempt to pick out one single class of lands which we today think might be a benefit to the State, and say that for all time to come such lands shall be exempted from taxation. It seems to me, Mr. Chairman, that this is an entirely wrong attitude for this Convention to take. We have already provided in the revenue article that property shall be taxed by valuation. Now, I take it to be true that if there be a tract of land devoted exclusively to forestry from which no income can reasonably hope to be derived for many years, or for any ordinary lifetime, that the value of such land is of necessity very low. Any local assessor will take that fact into consideration and such lands will be assessed at such a rate that the tax burden upon such lands will not discourage the devotion to forestry of such tracts of land. I would have no quarrel with the first sentence of this proposal, "The General Assembly shall pass laws for the encouragement of forestry," if it stopped there, but to go on as this proposal does, it seems to me is in the face of everything that this Convention appears to believe in on the question of taxation.

CHAIRMAN TANNER. The question is to strike out the word "exclusively" in the fourth line of the proposal.

Mr. HULL (Cook). Just a minute. May I ask the gentleman why he wants to strike out the word "exclusively"?

Mr. DUNLAP (Champaign). It was offered here yesterday because of the apparent objection of some of the members that they wished to have

that apply in a modified way. For instance, if the lands were used partly for forests and partly for something else, that an exemption might be made so far as forest culture was concerned and might be taxed so far as other uses were made of the land. I haven't any wishes one way or the other so far as that is concerned. I believe that the legislature would provide that if an exemption is to be made, it must be where the land was used for forest purposes. I am not particular about whether it is stricken out or not.

(Motion lost.)

Mr. DUNLAP (Champaign). Mr. Chairman, I would like to submit another amendment that has been suggested to me, and that is that, "The General Assembly shall pass laws in aid of and for the encouragement of forestry." I don't know that that would add anything to it, and I am not offering that, but I would like to hear from some of the lawyers in the Convention as to whether that would really add anything to the authority of the legislature.

Mr. SUTHERLAND (Cook). Do you offer that as a substitute for the entire proposed section, that one sentence?

Mr. DUNLAP (Champaign). No. I have added the words "in aid of," and I was asking the lawyers if they think that would add anything to the authority of the General Assembly? If that is not desired, I will withdraw it. I am not offering it at all.

Mr. DOVE (Shelby). Mr. Dunlap, as I understood you in answer to my question last night and also your statement this morning, that the first sentence there up to the comma in the third line adds nothing to the power that the legislature now has?

Mr. DUNLAP (Champaign). Up to the word "forestry"?

Mr. DOVE (Shelby). Yes, that portion of your proposal adds nothing to the power that the legislature now has.

Mr. DUNLAP (Champaign). That is my opinion, that up to the first comma it adds nothing to the powers that the legislature already has.

Mr. DOVE (Shelby). And the rest of the proposal then, simply granting to the legislature the power to classify land that is devoted for forest-ation purposes, that is simply an inducement offered to the individual to put his land to that use?

Mr. DUNLAP (Champaign). I might qualify that a little farther by saying that I really think it is important that something of that kind go into the Constitution, so that the legislature may feel that they have this authority and it is the desire of the people that they go ahead with some plan for the reforestation of forest areas in the State; and in reply to your last question I will say that I think that that removes the only thing in the Constitution for a limiting clause that would affect the planting of forests by the individual or by the corporation, as may be.

Now, it has been said that this would not in effect increase planting of forests by the individual. I take it that there are many interests in this State that if some encouragement along this line were given, that for a certain number of years there would be on lands that are devoted entirely to forest culture no expense attached to it so far as taxes were concerned, that they would organize and buy land and plant it out to forests. I refer to such interested parties who use a great deal of timber, coal mines, or lumber companies and building companies, factories perhaps, that would grow timber for use in their own factories, and in that way we would build up and reforest these lands that are now growing practically nothing.

Mr. DOVE (Shelby). Has that inducement ever been offered in any other state?

Mr. DUNLAP (Champaign). Yes, it has been offered in most all of these states that I have referred to, but most of it is in recent years, and is coupled with certain limiting provisions that according to the report of the forestry commission, by so hampering any other provision, that no particular advantage has been taken of them. In other words, the planting of a forest for future generations, to get your money out of it, in the nature of things must be done by a philanthropist who wants to contribute something

towards the future, or it must be done by some corporation that is continuous in its life; so that the stockholders in the company will be interested in it even when those who own the stock today have passed away.

Mr. DOVE (Shelby). Don't you think it is the function of the State more than of the individual?

Mr. DUNLAP (Champaign). I think that it can be done by the State very successfully, but I don't think that it is a matter that we ought to overlook, to encourage its being done by individuals or corporations.

Mr. DOVE (Shelby). And you particularly want the Convention to go on record here as favoring or incorporating in the new Constitution some provision that shows that this Convention recognizes the necessity of doing something to encourage forestation in Illinois?

Mr. DUNLAP (Champaign). Yes, I do.

Mr. DOVE (Shelby). And you would be satisfied then with only the first portion of that proposal?

Mr. DUNLAP (Champaign). No, I think it would be a mistake to just pass that first portion.

Mr. JARMAN (Schuyler). Mr. Dunlap, you state that in your judgment the State at present has the authority to expend money and make provisions for the propagation of forests. Don't you think, and isn't it true, as a matter of construction of this article, that this is a limitation and will necessarily act as a limitation upon the State to do anything else than is provided for in this article, and that the State could not expend any money, if you put this proposal through?

Mr. DUNLAP (Champaign). I think the first clause here, Mr. Jarman, "to pass laws for the encouragement of forestry," would give them that authority. If not then, I suggested that the words "in aid of" might be included there, if that was necessary.

Mr. JARMAN (Schuyler). Yes, but the trouble with me is this: If you put in it that they can pass laws for the encouragement or in the aid of, isn't that a limitation upon the right of the State to own forests where there is now no limitation, and you are putting a limitation in there, because the rule is absolute that you cannot pass a mandate without it amounts to a limitation.

Mr. DUNLAP (Champaign). Well, the State has laws for the encouragement of agriculture, for example, and yet the State goes out and buys land for experiment stations in different parts of the State without any particular authority in the Constitution. I do not put my judgment as a lawyer against yours, Mr. Jarman, because I am a layman, but I don't think that that would limit the power of the General Assembly.

Mr. RINAKER (Macoupin). Mr. Chairman, I am in favor of the principle expressed in this proposal. I do not favor the idea of leaving the matter of reforestation to individuals without some State supervision or control, and, of course, none is provided in this proposal and it would be anyhow a matter for legislation and not properly to be included in the Constitution. I had thought about it along the same lines suggested by the questions of Delegate Dove a few moments ago, and had thought that my idea of the matter could be better expressed by a substitute for this proposal, to see if that would meet the sentiment of the Convention, and I will offer as a substitute for this pending proposal this language:

"It shall be the policy of the State to promote reforestation of waste lands and the conservation of the water supply for agricultural purposes by appropriate legislation, and this shall not be held to be forbidden by the article on revenue."

The verbitage is perhaps open to criticism, but the idea is the one that occurred to me. I move its adoption as a substitute.

Mr. DUNLAP (Champaign). Mr. Chairman, I do not see any particular objection to that provision. In fact, I was thinking of making it a little bit broader than that myself, and saying, in substance, that notwithstanding any other provision of this Constitution; and I would like to ask the delegate from Macoupin if he would not think that the language instead of referring to the revenue section particularly, should say "notwithstanding

any other provisions in this Constitution to the contrary," and that would leave the matter open entirely?

Mr. RINAKER (Macoupin). I see no objection to that. The reference to the revenue act was only for the reason that the prohibition in the revenue section might forbid this, or might be held to be a prohibition on this. I have no objection to extending it.

Mr. GREEN (Champaign). Might I inquire, wouldn't it be better to strike out the words "generally should not be forbidden by the Constitution"? That would mean that whatever was done in connection with carrying out this scheme must be in harmony with specific provisions, for instance, about taxation and everything else. Wouldn't it be absolutely necessary, if you wanted to avoid the limitations of the particular thing in the Constitution, that you should do that?

Mr. TAFF (Fulton). If that amendment went through, would it be possible for the State to take private property without compensation?

Mr. RINAKER (Macoupin). I certainly would not want it to go that far.

Mr. TAFF (Fulton). Would it be possible?

Mr. RINAKER (Macoupin). If it contained as broad language as was contained in the question of the gentleman from Champaign, it probably would.

Mr. GREEN (Champaign). Might it not be true, where you say it simply shall not be forbidden, yet the naked expression of this State policy, that it is not forbidden—would that operate to set aside another provision unless you specifically referred to it or else it might be held to set aside the due process clause, as delegate Taff suggested.

Mr. RINAKER (Macoupin). I am inclined to think that the limitation had better be narrower than I said a few minutes ago.

Mr. HULL (Cook). Mr. Chairman, I would like to ask the gentleman from Macoupin just what he means by conservation of the water supply for agricultural purposes? I haven't got a picture of what he means by it.

Mr. RINAKER (Macoupin). The business of agriculture without water is bound to fail, and reforestation is one of the things that is believed to be necessary for the conservation of the water supply for agricultural purposes, and it might be that within the life of the Constitution the construction of dams in streams for some purpose of irrigation might be necessary. I had no ulterior object, but as reforestation was intended primarily for the preservation of the water supply, I used the broader language also.

Mr. HULL (Cook). I don't quite get what the scope of that provision is. He speaks of the damming of the streams for the purpose of saving water. Can't that be done now?

Mr. RINAKER (Macoupin). Possibly so.

Mr. HULL (Cook). I was just seeking light as to the full significance of that proposal, and where it might lead. I am not inclined to go along with proposals that are not reasonably clear.

Mr. DUNLAP (Champaign). Mr. Chairman, I am inclined to think that the delegate from Macoupin and myself are not so far apart in what we wish to accomplish. I do think, however, that what is sought in this proposal is of a practical character. Now, if this were adopted, if we leave this proposition as it is here and then it can appear on second reading or in the rewriting of this that some modification can be made that will more clearly express the idea that we wish to record. I have no objection to it at all farther along, but I dislike at this time to accept offhand an amendment that covers so much territory as this seems to cover, and I wish that the gentleman would withdraw that and offer it on second reading if he thinks necessary, unless he thinks it is materially different from his proposition.

Mr. RINAKER (Macoupin). I would like a vote on this substitute.

CHAIRMAN TANNER. The question is upon the adoption of the substitute offered by the gentleman from Macoupin.

(Substitute carried.)

Mr. DUNLAP (Champaign). Mr. Chairman, I move that proposal number 355 be adopted as amended.

Mr. SUTHERLAND (Cook). Mr. Chairman, I voted against the substitute. I had hoped that this proposal might be whipped into some such shape that I could support it, because I am very much in sympathy with the ends sought, but it seems to me, as I heard it read, that the substitute opens the doors even wider than this proposal, and as my line of questions may have indicated last night, it seemed to me that the doors were opened too broadly on this proposal, because the bold suggestion of the substitute is that the General Assembly is to aid not only in reforestation, but now in an even broader field, by exemptions from taxation. And if the gentlemen thought that it was dangerous to give them broad powers in that direction on all subjects, and thought that it was somewhat dangerous and open to abuses, as the delegate from Vermilion expressed it, to permit them to have broad powers of exemption on the problem of reforestation, certainly the field for abuse is infinitely broader as the substitute now reads, and I hope now that the whole proposition will fail. I think we are getting into dangerous ground.

Mr. DUNLAP (Champaign). Mr. Chairman, in replying to the gentleman from Cook, it occurs to me that this has been the fate of every effort that has been made along the line of reforesting the areas that ought to be devoted to forestry in this State for many years. Whenever that proposition comes up, everybody falls in line and says, "Well, that is what ought to be done," but they are not willing to go along with any constructive proposition that will tend to improve the present conditions and the future of this State. Now, unless someone has a really progressive measure better than the one submitted here, I submit that if we are going to do anything now, let us adopt this proposition, at least at the present time, and then the gentleman from Cook or any other member of this Convention, if they can come forward with a better proposition on second reading, they will certainly have my support for the proposition, but let us not wipe this proposition out here and say that for the next fifty years we are not willing that the General Assembly should have authority to go ahead and encourage a proposition that everybody who has investigated it says ought to be done, and I hope that the gentleman will not oppose a proposition here that comes up again for another consideration before this committee, unless he has something better to offer.

Mr. SUTHERLAND (Cook). Mr. Chairman, I will point out simply a situation with which I am more or less familiar. I believe that under this provision now it would be possible for the General Assembly to provide that areas of land sowed in clover, for example, for the purpose of replenishing the soil with certain elements produced by clover growth, should be exempt for a period while they were sowed in clover. Now, Mr. Chairman, we have in the outlying districts of my own city very considerable areas of land that are being held for the growth of the city by private investors, and they are holdings of a speculative nature, and there is a large amount of property still in the city so held, and I can conceive readily of a situation where property so held, by being sown in clover, could escape its just share of the taxation. Now, that is only one thing that occurs to me here, and I don't think it would take any gift of imagination to see many others. I am trying hastily to draft something that I think possibly should meet the gentleman's idea, and I personally would rather see some substitute adopted than that the whole subject should be disposed of, but I think it is far better to dispose of it negatively than to do something that we will be sorry for later.

Mr. COOLLEY (Vermilion). Mr. Chairman, I want to call attention to the fact that one of the purposes of this Convention is to clarify the situation in regard to the revenue article, to avoid the evasion of property from taxation. To my mind this is a situation that will lead to the wholesale evasion of taxation and I am against the proposition as it now stands.

Mr. DUPUY (Cook). Mr. Chairman, I am tempted to say a few words on this subject. I think it a most important one. I am very much in

sympathy with the views expressed by Senator Dunlap in trying to forward some scheme for reforestation. It is surprising to my mind how little attention is paid to this very important subject, either in the halls of legislation or outside. We cut away trees in this country with the utmost wastefulness. That has been done in Illinois, and our forests are disappearing. They are vital to the best interests of the people. We must have a supply of wood and of timber, lumber and other forest products. We know what has been done in European countries. I have had the pleasure of noting it personally on two different occasions, and I have seen some of those very old countries, in Bohemia, for instance, the finest forest I ever saw anywhere, great, tall, beautiful, splendid trees, taken care of with the utmost care by the state, ready to serve the interests of their people.

Now, why can't we do something like that in Illinois, and in these other western states that are so rapidly denuding their forests? Two or three difficulties present themselves: In the first place, it has been said and rightly that no man with the term of human life as it is, can successfully go into this business for the sake of profit. No man lives long enough to reap the results of labor of this kind, or the effort and capital expended in trying to grow a forest. Consequently, it is not within the power of individuals to do this thing. My friend from Cook county who spoke a moment ago speaks about planting lands in clover for the purpose of increasing their fertility. Why, the two things are totally lacking in analogy. Clover can be grown in one or two years, and the result of it acquired, and the individual can go on farming his land in its increased state of fertility. There is no analogy whatever between the two things; but here we have a proposition of a matter most important to the State and all the people in the State, that ought to have effective attention from some source or other, and yet it has from year to year and decade to decade gone along without anything being done.

I have never thought very much about this topic, I am not an expert, I don't know anything about it except in the most superficial kind of way, but the most superficial knowledge and observation teaches us that something effective ought to be done. I believe personally that we ought to say by this resolution that it should be the policy of the State itself to acquire these lands and conduct this business. Of course, I know instantly that there is opposed to that idea the civil service that we have in this country, the lack of effective attention to things that are so strictly of a public nature of this kind, but I don't think that is an insuperable difficulty or one that really ought to stand greatly in the way. I am in favor of exempting partially from taxation those lands that shall be devoted exclusively to forestry. I am not in favor of a man having an 160 acre fine farm and cutting out five acres of forestry in one corner of it and then getting an exemption for the whole tract, and that might be possible if you had stricken out this word "exclusively," but, I think, gentlemen, this subject is one of sufficient importance to warrant our giving it our careful thought and our respectful attention, and I am in sympathy with what has been said so far in regard to some plan for development, and I am strongly of the opinion that we should go further and we should establish the policy of the State to acquire these lands and to put them back into forest growth.

Mr. SUTHERLAND (Cook). Mr. Chairman, I desire to offer the following substitute and move that it be adopted in the place of the section as amended:

"The General Assembly shall not be precluded from passing laws not inconsistent with general principles of legislation laid down in this Constitution in aid of and for the encouragement of forestry."

Mr. GREEN (Champaign). May I ask of the gentleman from Cook, does that constitute any limitation or any grant of power whatever in addition to what now exists, if you did not put anything in at all?

Mr. SUTHERLAND (Cook). It brings it within the general limitation as to legislation, that is, that laws shall be uniform, and certain other general limitations as to the passage of laws. I assume that the intention is to give the General Assembly some power in the matter. I don't know

whether there is now any inhibition against the General Assembly buying tracts of land and setting them aside for forestry, and then leasing them for timber cutting purposes in future years or not. If there is any, why then we don't need to say anything about this subject in the Constitution.

Mr. GREEN (Champaign). Do you think this proposal will give them that power if they do not already have it?

Mr. SUTHERLAND (Cook). I would think so. I am not a lawyer, and the distinguished delegate's opinion on that would be better than mine. That was my thought.

Mr. GREEN (Champaign). Mr. Chairman, I dislike very much to discuss this, but now isn't it true that all that is under protracted discussion in this matter grows out of an unwillingness to just say exactly what we all mean? What do we mean? What did this proposal mean in the form in which it was submitted? It said in so many words that the General Assembly should pass laws to promote forest culture for the encouragement of forestry. Now, it says that, that is all right, that is a sort of a mandate.

What did the rest of it mean? Why, it means that in order to do that the General Assembly shall have power to classify those lands for taxation. We ought not to be scared of the word "classification." We have already got it in the revenue article. We provided for substituting as a class the income tax on intangibles and classified them to that extent, so that we are doing no violence to our prejudice against classification when we specifically say that as to a particular thing, the General Assembly to encourage this good thing may be allowed to classify. That is exactly what the proposal means as it was originally submitted, "and shall have power to prescribe such methods for the taxation of areas devoted to forests and forest culture as will develop and conserve the forest resources of the State."

Then in the course of the debate the question is asked, "Well, what kind of method of taxation will they prescribe?" And everybody agrees that the method will be by exempting it from taxation for a period of time, or reducing its value for taxation purposes for a given time, or substituting a stumpage tax in lieu of an advalorem tax for a given time, or may be for all time, which simply means, in so many words, that the General Assembly may classify lands or areas devoted to forests and forest culture for taxation, may classify for taxation those areas.

Now, we are surely big enough not to be afraid to put it right down in language when that is what we mean, and I submit that the substitute that is now before the committee means exactly the same thing. It even questions the necessity of mentioning the revenue article so as not to be construed to set aside the Bill of Rights and everything else, if indeed it could have such a construction. It seems, therefore, that it is more of a pride of sentiment than it is conviction, a pride of phraseology, because somebody is scared of that word "classify." We have already got it in the revenue article.

Now, if we had simply said, "the General Assembly shall pass laws for the encouragement of forestry, and exempt from taxation areas devoted to forest and forest culture," one reason for some of us offering that amendment is that we might be misunderstood and it might be presumed that we were attempting to do something to destroy the thing we are all after, but that is what it meant as it was originally submitted, and everybody was in sympathy with it, except the question arose here yesterday if we say "exclusively" devoted to forestry, why, then if there was a coal mine under it it could not get away, or if a man ran his hogs through it, it could not apply, or if it was used for a hunting preserve, it could not be applied, or anything else, and would mean the General Assembly can pass laws to classify it. I hesitate to offer that amendment if it is going to start a long debate upon it, but if we all mean that, it does seem to me we ought to do it.

Mr. SUTHERLAND (Cook). Mr. Chairman, I would like to have the amendment read for the benefit of the committee. Perhaps I would withdraw mine in favor of it.

Mr. GREEN (Champaign). In order to bring the matter before the Convention, I am offering as a substitute for the matter now pending, a proposal in the following language:

"The General Assembly shall pass laws for the encouragement of forestry and may classify for taxation areas devoted to forests and forest culture."

Mr. KERRICK (McLean). May I ask a question, not in opposition to what you have said, nor for the sake of controversy, but to get some information if I can. You speak of classifying property such as has been spoken of here, for taxation. Isn't it a fact that the assessor now under the law, under the Constitution as it is, does classify property according to its value?

Mr. GREEN (Champaign). I think he does it, and I think he violates his oath when he does it, because I think that he is supposed to value that land with the forest on it at what it is worth and what it would sell for on the market, and its fair values at that time, and while in practical effect he does deduct the forest, yet he violates his oath when he does it, and this was put in to give some real legality to that action.

Mr. KERRICK (McLean). How does he violate his oath if he classifies it according to its value?

Mr. GREEN (Champaign). Why, because he does not classify it according to value. He just arbitrarily deducts the value of the trees on it, but he has not any right to do that.

Mr. KERRICK (McLean). He is not violating the law when he does that?

Mr. GREEN (Champaign). That is not the way they do it.

Mr. KERRICK (McLean). I am asking about the law as it is now.

Mr. GREEN (Champaign). If you have a piece of woodland today and practically any trees on it, he values it the same as if it has not any trees on it, but he does it because the law forces him to do it, or else tax it at its fair value on the market.

Mr. KERRICK (McLean). But isn't he required to assess the land in accordance with its saleable value?

Mr. GREEN (Champaign). Surely.

Mr. KERRICK (McLean). How can you come nearer to classification than would result from the assessors following the law and assessing the value of the land at what it would sell for, what it is worth, what the owner could get for it? How could you classify it any more exactly than that?

Mr. GREEN (Champaign). Why, for instance, I have in mind a piece of land that sells for \$200 an acre on account of the trees that were on it, that the assessor had been valuing it at about \$25 an acre—I wouldn't say that accurately, but had been valuing it at practically nothing for years, because it was producing no income whatever.

Mr. KERRICK (McLean). And then assessing it according to the law?

Mr. GREEN (Champaign). No, he was not. If he had assessed it at what it was worth, he would have forced the owner to cut the trees off of it and destroyed the forests.

Mr. KERRICK (McLean). He would have assessed it at what he could sell it for.

Mr. GREEN (Champaign). No, he was not. He did not dare to.

Mr. KERRICK (McLean). Oh, no, you don't get me yet. If the law now is that in case I should own a piece of land from which the timber had all been taken?

Mr. SUTHERLAND (Cook). Mr. Chairman, point of order. They seem to be discussing the amendment of the delegate from Champaign. In order that that discussion may be in order, I will temporarily withdraw my substitute, otherwise the substitute offered by the delegate from Champaign would not be in order.

CHAIRMAN TANNER. If there is no objection, then the substitute of the delegate from Cook will be withdrawn.

Mr. DUNLAP (Champaign). As I understand this, it simply injects in this word classifying the classification of property. As I understand the revenue article, it is to raise money for the purpose of government. This

tax must be raised and there must be some revenue article by which revenue may be raised, I don't think the word classification occurs in it, but they say that is there because we have provided for a different manner of assessing intangible property. We will admit that. These things are for the purpose of taxation, for revenue. Now we come to look on an entirely different proposition, a matter of the policy of the State towards a rehabilitation of the forests. Now the object of that is not to provide a system of classification of property for revenue, but to give the legislature an opportunity if they can to exempt property devoted to this particular thing from any taxation whatever, if they so desire. Now the question of classification of these lands, if it is to be classified, is a very different proposition, and it would look as though we were attempting to amend the revenue article by providing some different system of classification for this property, and it might well be said that if that is our intention we ought to amend the revenue article when it was here under consideration, but that was not the intention of the committee at all, it was to provide a policy for the government looking towards the future development of the interest of the State so that this might be taken care of in such a manner as the General Assembly might provide for. I don't think it is proper at this time to inject the word classification into it because it conveys a different idea. It conveys an idea of taxation of property. While it is in a measure with reference to that, the idea behind it all is a different proposition. It is a matter of exemption, not necessarily exempting it or classifying it for the purpose of taxation, for the time being, and our idea is not that the property shall escape taxation, but that a policy may be inaugurated here so that through an income tax in the future, perhaps along the very lines of the article provided in the revenue article, that the property, when the interest is cut off, may be taxed according to its value or its income that it provides. So I think we ought to have a well defined policy with regard to forestation, and while I prefer the matter as it was reported by the committee I have not any objection to what has been adopted by this committee or this objection of the amendment offered by the delegate from Macoupin, because it outlines a well defined policy with regard to this proposition and permits the legislature to pass a law without regard or reference to the revenue article.

Now that is the reason I think we ought to adhere to the proposition that we have already adopted.

Mr. KERRICK (McLean). Under the method of encouraging the planting of trees on land that is adapted to raising trees and nothing else. Suppose the tax exemption is applied at all, after the trees have been planted and have grown several years, and there is practically a certain prospect that in not a great many more years there will be some timber that is usable and very valuable, would the legislature, under this provision, be at liberty to determine by some sort of description as to classes, when the tax should be taken, that is when the tax should be levied against this property? In twenty years for instance, land that was worth practically nothing when the trees were planted would have a present value in view of the near future bringing it into the market for a useful purpose. Would it then be within the power of the legislature under this provision to determine what such growth of timber would be worth and the necessarily increase in value of the land, when taxation should be resumed, would that be within the control of the legislature under a proposition of this kind?

Mr. DUNLAP (Champaign). Certainly, I do not think there is any doubt about it.

Mr. KERRICK (McLean). It is not necessarily the case that you would have to wait until there was a full grown forest before this land was ready for taxation?

Mr. DUNLAP (Champaign). Not necessarily.

Mr. KERRICK (McLean). It might be in a very few years. I can readily conceive, in fact I know of a case of that kind where the timber was destroyed and the regrowth gave back the same kind of timber, very quickly. Perhaps in ten years that land is valuable, probably nothing in

ten, but with a practical valuable forest, or it might be in five years it would be proper enough to make it subject to this land at taxation, because they could sell it for that purpose. Under your provision as framed here, and under many other situations, do you think that the legislature would have complete control on the question of the subject of the land for taxation at a fair valuation after it was a prospective forest?

Mr. DUNLAP (Champaign). It would be entirely within the province of the legislature to enact such a law.

Mr. KERRICK (McLean). Because otherwise we might get into great difficulty here, with a vast amount, millions of acres, it is said of property which would be very desirable to own and for which they would pay a considerable price, and if the legislature hadn't power to resume taxation to that kind of property the State would lose an enormous revenue.

Mr. DUNLAP (Champaign). It would have control of that. There is nothing in this provision which defines any specific time. It leaves it entirely to the legislature.

Mr. KERRICK (McLean). Of course they could not pick out individual pieces of property.

Mr. DUNLAP (Champaign). The law would have to be general.

Mr. KERRICK (McLean). Yes, a general law.

Mr. MOORE (Macon). It seems to me this is a simple proposition, the proposal says:

(Proposal read.)

The amendment simply expresses that idea here a little more clearly, and it is a question of trying to say something without saying it that it is now before the house, or whether we are trying to have something say what it means instead of saying it without saying it. I hope the substitute will prevail.

Mr. DUNLAP (Champaign). I may suggest for the gentleman's information, the proposal as originally submitted has been changed by the amendment offered by the delegate from Macoupin.

Mr. MOORE (Macon). I understand that the substitute is putting it back saying what it said originally.

Mr. DUPUY (Cook). Do I understand the proposal as now submitted relates to land devoted exclusively to forestry?

Mr. DUNLAP (Champaign). No.

Mr. DUPUY (Cook). To amend the proposal by adding the word exclusively. That would prevent a man having one hundred and sixty acres, who may plant a small portion of it in forests, claiming exemption for the whole tract. Now that is something which should not be permitted. It ought not to be made possible by this proposal. If the language excludes that proposition I am for it, if it does not, I am against it, as I understand it does not exclude that proposition, therefore, I offered the motion to insert the word exclusively at the proper place.

Mr. GREENE (Champaign). The delegate entirely misunderstands; that would just render futile the whole thing, it seems to me. For instance, if it is devoted to forestry, the General Assembly could exempt it, could any way if they wanted to, if it was only devoted partly, but nobody thinks they want to anyway. If they pass a law, "devoted exclusively to forestry" suppose you have a situation where trees are planted and the thing is beginning to be good forest preserve and forest culture, and it is used for pasture, a man lets his hogs run through it, and rents it for picnic use, or rents it for hunting purposes, if you require the word exclusively in there you can give that man no relief. It may be under the law that this tax has one mission which has to be treated separately, and it may be used to get at many different purposes and forestry, and it may be devoted to forest culture, now the tax ought to be different on it, if it is partly devoted to forestry exclusively, but if you limit the tax exemption to those forests exclusively devoted to forestry culture, it will be of no avail, that would not amount to anything.

CHAIRMAN TANNER. The question is on the motion of the gentleman from Cook.

Motion lost.

CHAIRMAN TANNER. The question is on the substitute offered by the gentleman from Champaign.

Adopted.

Mr. DUNLAP (Champaign). I move that the section be adopted as amended by this committee and I move along with it that it be incorporated in the new Constitution, in an article that is appropriate.

Adopted.

Mr. DUNLAP (Champaign). I move the committee rise and report action.

Adopted.

President Woodward presiding.

CHAIRMAN TANNER. The report of the Committee on Agriculture on proposal No. 355, is with the recommendation of the committee that the report as amended be adopted as a part of the Constitution.

Report adopted.

PRESIDENT WOODWARD. The Convention will resolve itself into the Committee of the Whole to consider political rights, and the Chair designates Delegate Rinaker to act as chairman of the Committee of the Whole.

Delegate Rinaker presiding.

CHAIRMAN RINAKER. The question is on proposal 129.

Mr. HULL (Cook). I would like some explanation of the proposal.

CHAIRMAN RINAKER. I would say that the proposal was considered by the committee, and they thought it had in it some features that were somewhat novel and yet it included the matter of primary legislation, and it was a very important subjection and after fully considering it, it was the opinion of the committee that it be recommended—reported out with the recommendation that it pass, so that the Convention could consider it fully, and in further compliance with the request the chairman would recognize the gentleman from Champaign, who offered it. I will say that it seems to me that there is much good in it.

Mr. TAFF (Fulton). I offer the following substitute, and move its adoption.

Mr. GREEN (Champaign). I think if the delegate will wait until there is a complete explanation of this entire proposal that the matter of this proposal will be clear, and I respectfully request that he wait until the explanation of the entire proposal has been made.

Mr. TAFF (Fulton). I am agreeable to the suggestion.

Mr. GREEN (Champaign). I realize that this is not an opportune time to discuss—

Mr. GARRETT (Cook). Fundamentals.

Mr. GREEN (Champaign). The delegate from Cook prompts me to say fundamentals, but that is not the expression I had in mind, but to discuss the principles of constitution making.

Mr. MILLER (Cook). Fundamental principles.

Mr. GREEN (Champaign). The fundamental principles which should underlie and conduct the delegates in fairly considering these things, and if I consulted my own feeling about it I certainly would prefer to discuss it at some other time, because it is obvious—

Mr. DAVIS (Cook). It is a very bright morning.

Mr. GREEN (Champaign). —on account of the action of this Convention in the Committee of the Whole, and the reception of its work on the part of some of its delegates, it probably makes for a situation that is not conducive to the best work, and therefore if we have the pride or faith in the things which we have advocated we are little bit in the situation of the man who had excused five men off the jury, and his challenges were limited to five, and he called another that he did not like but still he hoped he would give him a fair trial, at any rate it is our duty to proceed on the theory that whatever we say, and whatever cause we advocate will be received and heard with a sincere purpose to divest our minds of prejudice and really consider each matter upon its merits, and, Mr. Chairman, it is the universal opinion of the delegates in this Convention that they have

held towards every other delegate that attitude of fairness and respect that they believe every man is actuated by pure and conscientious motives in what he does. So with that explanation and introduction to what I want to say about this proposal I trust that it will be considered wholly upon its merits and independent of anything which may tend to prejudice anybody. Now the delegate from Fulton has apprised the Convention that he has an amendment to offer. It was the result of considerable conferences not only between the author of the proposal and the gentleman who offers the amendment but with other members of the Committee on Bill of Rights, and other delegates in this Convention on this floor, and is offered only to make clear the purpose of those of us who believe in this proposal, and it is acceptable to the author of the proposal—that it was not to be construed to limit or prevent the abuses or uses of the primary laws for political parties, if political parties see fit to use them. Prior to that place in the proposal it is designed for the purpose of preventing the legislature from forcing political parties to conduct their affairs pursuant to the mandate of some outside agency and at the same time in the form which it is offered, with the amendment, the right is preserved for the same political association to voluntarily accept the benefits and provisions of primary election laws if it sees fit to do so. Now, gentlemen, this proposal really has in it four elements. There is not anything in this Constitution except in one place in which we refer to republican form of government, in which there is either express or implied commitments of the state to that form of government. There is nowhere in the Constitution in express language a recommendation of the sovereignty of the State in its exercise of the police power for the public welfare. Those are all implies, and it is not argued that it is necessary to have them expressed, but it has seemed to use who have given this matter thought, in the light of existing conditions, when the problems of unrest are confronting us there is on every hand a manifestation of those who would overturn the established order of government, and that a timely expression in the Constitution of the republican form of government is assured, and no law regarding the selection of officers or the regulation of party politics should ever be contrary or tend to destroy or impair the republican form of government is justified, and we are all here interested in public welfare—legislatures are elected, convene and do their work guided by interests of party welfare, and there should therefore be no objection to the Convention itself going on record as declaring its recognition of the real purpose of government, including this convention.

Now this is no time for any waste of words or waste of your attention in discussing Constitution making, but there is a difference in this Convention about how a Constitution should be framed; this proposal proceeds on this theory that a Constitution should be a declaration of principles, and only so much of the necessary enactment of forms and procedure as is necessary to constitute the organization of the departments of the government, legislative, judicial and executive. Now there is not any real difference of opinion in Illinois, but there is something the matter with the existing order of things with reference to the conducting of the affairs of political parties. I believe that this demand for initiative, referendum and recall, this demand for a new system of government has a good deal of merit it, in the conditions under which the people live and operate, and I believe that it is a far cry from the oppressed members of society in the State, and those who have some political beliefs, and some desires for political activities under the existing laws in Illinois, that are repressed and prevented from expressing. There was a time in the history of this country, and especially the history of Illinois when it was possibly to register some new theory and get it finally adopted in the platform of a political party, and do it through the ordinary machinery of society, by which the humblest citizen if his conviction was right prevailed, and the multitude accepted his new idea and incorporated it into the fundamentals of political parties, and finally into the basic law of his state. And, gentlemen, that is a thing that is impossible of accomplishment now. To illustrate, let us take the subject of the abolition of slavery, and compare the opportunities it had for

becoming engrafted on the law of the land in the brief time in which it rose to its full fruition, and accomplishment, compared with the improvements which have come up in later years; that idea was born around the corner grocery store, where the neighbors met on the winter evenings and spat at the wood box, and discussed the deep problems of government, and every man was more or less of a statesman, and he studied around his fire side; and in his community, and in the country schoolhouse and the meeting places, he discussed great problems of government. Now reverting for a moment, for the edification and education of members who live in a population where that is no longer the prevailing rule, there are in Illinois yet a lot of places where these things are discussed, and where emanate more real sound convictions on the problems of government and affairs of state in proportion to the population than come from those places where there are other things to distract the attention of the people. Now those are conditions. Now another condition is this, a few years ago we were in the throes of an evil from which we fled, to what others believe was a worse condition; political parties had become corrupt, it was alleged, it was alleged that the old fashioned method of electing delegates by the soap box method, and the battles which came about from rivalry of political organizations had brought the State into so much trouble the State must take on itself the responsibility of providing the means by which these political parties should function. That was a mistake; it was a mistaken policy for the State ever to assume the prerogative of dictating the management of political parties, and it has been demonstrated by the results which have followed; for, while perhaps one evil was removed by that policy, yet the other evil which was brought about by the State taking unto itself the prerogative of controlling the operations and policies and procedure of political parties has operated to repress the individual from the opportunity to exercise his political freedom as is his right. Politics and the participation in politics should be just as free and just as open to voluntary participation by the individual as membership in a church. We have in the Constitution a clause for religious freedom but I believe for the welfare of the State it is more important that the government of the State keep its hands off any control over the citizen in his political activities, as it is that it keep its hands off his activities with reference to his religious professions, because politics is the thing through which society manifests itself through the structure of its government.

Now the first clause in this proposal is a proposition with the words in there "at all times." That is unnecessary, but they are inserted for emphasis of the right of the citizen to freely and voluntarily organize and promote and affiliate with any political association, government or activity shall never be curtailed, abridged or infringed by law so long as it does not destroy or tend to destroy or impair a republican form of government, by the implication if there is an association, movement or activity which would undermine the established forms of government, then the right of the citizen should be repressed from engaging in the organization or affiliation of that kind of organization. Well, it is said that is already the inherent right of the citizen, but it is not, in the evolution of the system of primary laws in Illinois; we were forced by necessity finally to prescribe the qualifications of voters in a primary, not but that a political party has a right to prescribe the qualifications of the voters at its own primary, but the State was forced to prescribe the qualifications of voters at primaries, and the legislature finally went so far as to disfranchise a man from participation in party politics for two years, if he desired to change his party politics; that was the natural evolution and the natural result and the primary laws by the General Assembly provided that a man having voted in one election for one political party at a primary could vote at another primary for another party for two years, but the right to change his mind and affiliate with this party today and over night go to another, and then affiliate with another political party is the inherent right of the citizen, to freely express and voluntarily give his opinion, untrammelled by any attempt of the legislature, or otherwise, to curtail, infringe and abridge it.

When it is abridged the citizen will try to find an opportunity to express it in another way than by affiliating with a political party. Remembering that we must run the government by political parties, that political party must assume the responsibility of conducting its own affairs, and its own procedure so that it will appeal to the majority of the electorate, in order that its candidates may finally find positions in the high places of government, and it may become a dominant factor in the government. If the State attempts to regulate the political party, the responsibility falls from the shoulders of the citizen and falls over the State. It is assuming a prerogative it cannot bear. It is said that this provision would wipe out all primary legislation in the form in which it was originally presented, it would not do that, but it would wipe out certain kinds of primary legislation. It was designed for that purpose, if adopted. There is primary legislation which ought to be wiped out, and ought never to be allowed, limiting the citizen in his exercise of political freedom of action. But I still believe it would not prevent the party from voluntarily accepting the provisions of the law which would be passed, allowing it to take advantage of the machinery by its own voluntary action instead of by its own worst conduct. We had before the primary the old Crawford law, which was perhaps in use in one township in this county, and in another county; and many school districts, and many townships and counties and senatorial and congressional district without it. It was in use for township elections; in use for county elections, but not congressional; the delegate system was in vogue and the citizens themselves made up the party. Now then, what has been the result? With the advent of the primary legislation that is what has happened, and it is especially patent, in the great congested centers of population. It has enabled the rich man, who, calling in his chauffeur, seats himself in his limousine and wraps his buffalo robe around him and goes down to the ballot box and deposits his pure, lily white ballot in the box, and then has John drive him home, and feels a moral security and happiness in the fact that he has done his duty at the polls. While in the practical operation of the thing the same chauffeur went out and voted twenty-five men because he participated in the affairs of his party the other way. Yet the citizen of wealth and the man who was looking towards the law to protect his political affairs has thought he has done his duty when he has obeyed the law. It ought therefore to be necessary as a matter of protection for the individual citizen that he be compelled to go into the caucus of his party, that he be obliged to go to the ward or township meeting, that he be made to participate in its procedure or activities, that he be compelled to assert his voice in the policy and procedure of the party, and not let him hide behind the acts of the General Assembly, to have it lay out the course he can follow, to enable him to discharge his duty, when he in fact is simply building up the evil results that follow. After all it is wrapped up in one sentence, any one knows the enforcing of the provisions of these primary laws on the people of the State, has operated to drive from the poor man any hope of high political preferment; not all have the additional moneys which would be spent legitimately, but of necessity, sometimes to reach the voters, and he cannot submit his claims to his neighbors and to those who know him, and they in turn may take his claims and present them to others, who may be representatives of their communities, and thus on his own merits and without any reference to the expense or lack of expense in a campaign of that kind, he can have his claims passed upon, and if he be rejected and another chosen, he is in that happy frame of mind to say, "The voice of the majority spoke, and a better man was chosen." Yet even under the very seats that we occupy in this hall where an enforced primary exists, things could be adjusted without expense, and representatives of the respective political parties could have selected their representatives and you would have the personnel of the Convention just as it is now. There was forced on all, where the opportunity to serve was presented, and contests existed, an unfair and unjust and unnecessary burden of expense, that made it prohibitive perhaps to some who could even meet that meagre campaign. Indeed when we come to the consideration of con-

gressional positions, and of high state positions we are driven and prevented by law from having representatives of the political parties in the State, by the voluntary resolution and act of the managing committee, and from choosing our standard bearers, we are compelled of necessity to entail the expense of reaching the individual voter; and the Congress of the United States in its attempt and its purpose to enable that to be done, wrote in in so far as its officers are concerned those exceptions which provide forever the method of reaching the individual voters. Now what is the result of this situation we have at every primary and general election? Instead of having the convention, or the old fashioned method of having men who hold common ideals, and by a common purpose call together from over the State or from the district those thinking with them, and holding the ideas they express, and setting up under a platform and a policy a ticket which they present to the voters we find factions in each of the great dominating political parties, holding these same preliminary caucuses, they go through the same ceremonies which the political party does, and in the same quiet way, but without consulting as many members of the particular faction as would have to be consulted if the candidates were presented to the people for their suffrage. Slates are made up. Into every primary we go with two slates and two tickets, and the primary becomes really an election after that, if indeed it gets to that point, because it operates to line up solidly these factions, each striving for its own preferment in the personnel of the ticket; so issues are forgotten and fake issues presented, and the final product of the Convention, which is the combined mind of the leaders is nothing more or less than the outcome of the faction of the party. Now this proposal was presented to the bill of rights committee and reported out for your discussion in the belief that the Supreme Court ought to have a declaration expressed in the Constitution of the principle that Illinois regarded the right of the citizen to exercise his own political freedom with equal prominence and merit as the right to exercise his religious freedom, and they recognize the right of the political party to manage its own policy and to have its own procedure to the same extent and in the same manner that the religious institutions of the State exercise their prerogatives.

Now then, gentlemen, this is presented to you with these views conscientiously held; it would be putting a limit on the General Assembly forcing on political parties a system of politics that can only result in contention and strife and ultimate corruption.

Mr. BRANDON (Kane). I am for the proposal all of the way through and I hope it will carry; I also hope that what I am about to do will not be taken by any one as tending to detract from the passage of the main proposal, but I am also of the belief that something more than is embodied in this proposal should be offered for our consideration. I want to offer this suggestion in the form of an amendment, that we go a little bit further in clarifying the words "calculated to destroy or impair a republican form of government," so I move to amend by inserting after the word "calculated" in the fourth line the words "awaken class consciousness." It is not my purpose to speak to any great extent on this, because I think you all understand the purpose of it. It becomes clearer to me each year of my life the virtue of having one political party as a check on the other is destroyed in that it is possible to have a political party which is limited to one class of the people. The virtue of our political party system and the remarks of the distinguished gentleman from Champaign would indicate his belief at least that under the republican form of government a political party is essential to registering the sentiments of the people, the virtue of these political parties lies in the fact that there are some of all kinds of votes in all. Some rich in both, some poor in both, and the limitation in this Constitution by provision that no political party could be organized for the deliberate purpose of awakening one class of people against the other would not in my judgment prevent justice towards the poor or justice towards the rich, in any way, because it has full expression in political parties which may be made by all classes of people, and so I move the amendment offered, for the purpose of leaving no doubt that a political party which was organ-

ized deliberately for the agitation of class consciousness would be calculated to impair the republican form of government.

Mr. HULL (Cook). Would a farmers' organization tending to promote the interests of the farmers be such an organization?

Mr. BRANDON (Kane). In my judgment it would and should be barred. In the same way a political party organized by the union labor or the labor unions of the State would have exactly the same effect; or a political party organized by the bankers of the State. It would drive at the very heart of the republican form of government. In my judgment there should be some farmers, some millionaires, and some poor men and some employers and some employes in all political parties if we are to entrust our government to the political party system. If you do not have a distribution in the party of all classes of society, you are tending in my judgment to destroy the policy of the political party as an instrument for the expression of the people's will.

Mr. HULL (Cook). Then by indirection that is a license to the legislature to pass laws that would abridge the right of the farmer or of the laborer or of any other group to put into the field a political party to promote their particular interests; is that right?

Mr. BRANDON (Kane). That is exactly my purpose, and I hoped it would.

Mr. HULL (Cook). I am not at all sure that I understand the full import of this proposal. I have been enlightened by the amendment offered by the gentleman from Kane, and in view of that enlightenment I am inclined to be against the amendment, and against the proposal. The gentleman from Champaign has spoken with some feeling about the effect of this proposal on the primary election. It seems to me if we get into a discussion of the primary elections for the nomination of candidates for public office we are getting into an interminable field; and that the argument on this proposition addressed to the consideration of the methods by which candidates for public office should be nominated should be properly addressed to the legislature, and not to this Convention. I can understand some of the objections to the primary election law. There has been many primary election laws, and it may be there will be more. If primary election laws in their present form are objectionable to the people, the people have the remedy through their legislative body. It seems to me, borrowing the language of the gentleman from Champaign, a high regard for the fundamental principles of constitution making would impel us to reject this proposal in any form.

Mr. SIX (Pike). It occurs to me that the bill of rights is placed in every Constitution as a written guarantee of natural inherent rights of every individual. I notice that this proposal has to do with groups. I think also every bill of rights contains certain functions of governmental principles, which are accepted universally, I might say unanimously. The proposal injects into this Convention a matter of deep controversy. I think the proposal dealing with the political rights is not of that class of the section of bill of rights which deals with the right to petition the assemblies, it was clearly brought to our attention it should be so classified. Attention is invited to the fact that political rights in the same section are as worthy as are religious principles of the individual in the old section. It seems to me for those three reasons the proposal and the amendment suggest violently interfere with the fundamental principles which previously have been so strenuously supported in the debates of this Convention by the delegate who has spoken in favor of the proposal. This proposal is one of vast and growing importance to us, and must not be passed hastily. It is reaching down to the fundamental things. And in my opinion it violates them in three important instances.

Mr. MILLER (Cook). If a political party, pursuant to the last sentence, should voluntarily adopt the primary system, as now existing, this would guarantee the right of all Democrats to vote at a Republican primary. And of Republicans to vote at Democratic primaries?

Mr. GREEN (Champaign). I know, I so understood it—I want to say that the purpose—you ask that question I presume in good faith?

Mr. MILLER (Cook). You have the right to presume that.

Mr. GREEN (Champaign). The primary law attempts to define the qualifications of the voters at the primary. The purpose of this proposal is to allow the political party to define the qualifications of the voters at the political primary.

Mr. GALE (Knox). I am thoroughly in sympathy with the idea of this proposal. It does seem to me, Mr. Chairman, that this proposal, however, if it accomplishes any good for the State of Illinois, can only accomplish what seems to me a very great good, to-wit, the abolishing of these heinous primary laws, and I believe there are two amendments offered, and I have no right to offer another amendment, but I intend to offer as a substitute for the proposal, at the proper time the following:

“That direct primaries shall not be authorized except for county officials, or for delegates to nominating conventions.”

I would like to ask the delegate from Champaign his opinion as to that. This proposal if adopted, will it do anything more than your political parties accept or reject the provisions of the primary laws?

Mr. GREEN (Champaign). It is my opinion, in the form it was drawn it would prohibit an attempt by the legislature to evade the governing principles of republican form of government, and a form or condition which I might suggest would be the initiative and referendum. In other it would prevent the necessity of the use of any such agency because of the freedom of the citizen being guaranteed to make his own expression and in his own way work out his political ambitions. It seems to me that a fear of this kind should be guarded, in order that he may be guaranteed the restoration of rights which would preclude from his mind the idea that it was taken away from him.

Mr. GALE (Knox). Are you sure or do you feel sure in your own mind, that the suggestion which I have just made, to-wit, that the primary, direct primary shall not be authorized except for county officials or for delegates to nominating conventions is covered by this provisions now, when political parties accept them?

Mr. GREEN (Champaign). I would say I do not feel that it goes as far as your suggestion, I would use the word political expediency, but it was a fear of danger that it might be assuming too much to just arbitrarily forever exclude that possibility, under the declaration of principles announced in the proposal. The General Assembly at some time might see fit or find it necessary to announce it. In other words, there may be some legislation affecting the qualifications of electors, which will affect the operations of the primary, which would be clearly inconsistent with the public welfare, which the General Assembly might be prevented from protecting, and it seems to me this left it more elastic, so in frankness it does not go as far as you say.

Mr. SUTHERLAND (Cook). Wouldn't your proposal make it impossible for the General Assembly to pass any law regulating the primaries or conventions or local district caucuses, or a selection of delegates or pass any law in ratification of activities of political parties.

Mr. GREEN (Champaign). Your question requires a double answer. It would insofar as the machinery—use of the political machinery—was concerned, and it would not insofar as the legislature requiring certain preliminary credentials for placing a name on the ballot at the election.

Mr. SUTHERLAND (Cook). Wouldn't it be impossible for the General Assembly, for example, to pass a law that all primaries for the selection of delegates to a Convention, of all parties be held on the same day?

Mr. GREEN (Champaign). I had not thought of that. Yes, it would. I rather think if a political party of the State wanted to hold its various conventions in different places, and hold the State Convention on different days from another political party, I think that would perhaps prevent the General Assembly from requiring them all to be held on the same day.

Mr. SUTHERLAND (Cook). I understood you to emphasize as one of the reasons for desiring this that the present primary law prevents a citizen from participating in the activities of more than one party?

Mr. GREEN (Champaign). You misunderstood me slightly. I said that was the provision of the last act the General Assembly passed, but for other reasons as we all know that act was held unconstitutional, but that provision was not under fire, as a state law.

Mr. SUTHERLAND (Cook). But there is a great deal of objection to the curtailment of the right of the citizen to participate in the primaries of one party because he has recently participated in the primaries of another, is there not?

Mr. GREEN (Champaign). There is. It was common practice in those communities with which I am familiar before any primary law that each Convention or caucus or primary, by direct resolution fixed the qualifications of its electors and enforced them.

Mr. SUTHERLAND (Cook). That was not the experience in Cook.

Mr. GREEN (Champaign). Under the provisions of the present primary law hasn't the same situation grown to even greater abuses until at the primary day it is practically a race between the contending factions of dominating parties to secure votes from those in the other parties; and isn't it said with some merit in some districts that the election is controlled by those who do not stay with the party in the election?

Mr. SUTHERLAND (Cook). That doubtless has been made the subject of criticism. There is this difference between a law which makes it possible to prevent that abuse and the absolute inhibition of any law which makes it impossible to cure any such abuse, with that law there was a possibility of enforcement and in the main that law was enforced.

Mr. GREEN (Champaign). In view of the obscurity of the Australian ballot is there any practical way of enforcing a law providing penalties for a man who violates the provision of the primary law against his vote.

Mr. SUTHERLAND (Cook). Obviously, Mr. Chairman, when the record shows that a citizen within a stated period fixed by law has voted in another party, and he comes in and votes contrary to that law, having voted within two years, within the fixed period, at the primaries of another party and asks and obtains the ballots of a different party—he is liable to punishment under the provisions of the primary law, and those who connived with him in the fact are liable to punishment.

Mr. GREEN (Champaign). You will remember I did not say one who voted at a primary, I said one who voted at a general election. There is no way to tell because of the secrecy of the ballot. Do you believe it ought to be possible, as a fundamental proposition that a man should not be allowed to change his politics within two years, and that the legislature might make such a prohibition against it by legislative action?

Mr. SUTHERLAND (Cook). I will answer the question with another; what is the purpose of government?

Mr. GREEN (Champaign). Public welfare.

Mr. SUTHERLAND (Cook). Isn't it this, government is necessary where many people live together in order that the individual exercising rights, which alone he might exercise, may not exercise certain of those rights when they infringe on the rights and liberties of others; isn't that the purpose of government?

Mr. GREEN (Champaign). To restrain the strong, or majorities, against the weak, I guess that is right.

Mr. SUTHERLAND (Cook). And to restrain the individual, from performing acts which are contrary to the general welfare; isn't that also true?

Mr. GREEN (Champaign). That is not true when it comes to inherent rights of liberty, such as freedom of religious belief and I believe we are all entitled to freedom of political belief.

Mr. SUTHERLAND (Cook). You have raised the question of religious belief. Suppose a man came here from the banks of the River Ganges, and moved into the State of Florida with his family, and in accordance with his religious belief proceeded to go out and feed someone of his offspring to

the alligators, should he or should he not be restrained by law of civilized nations?

Mr. GREEN (Champaign). Certainly and for the same reason the legislature should be obliged to restrain any abuse of this political liberty, in doing the things that would go to overthrow the government, or public institutions, and be inconsistent with public welfare, and that is the reason it is in there.

Mr. SUTHERLAND (Cook). Isn't it true, I assume, though I suppose it is a violent assumption, that the delegate from Champaign is a Republican.

Mr. GREEN (Champaign). That is not violent; that is a fact.

Mr. SUTHERLAND (Cook). I will assume that the delegate from Shelby sitting at my left is a Democrat. Does the member from Champaign, being a Republican, think it would be promotive of the best interests of the people, considering that this nation of ours has been termed a government by parties, if the distinguished delegate from Shelby fulfilled his functions as a citizen and Democrat in his own primaries on Tuesday, then the succeeding Friday should generously go into the Republican primary and help the delegate from Champaign or some of the enemies of the delegate from Champaign, in making nominations for the Republican party.

Mr. GREEN (Champaign). May I answer that if I build a political party in which I cannot rally the support of enough really good men of the State to protect me against that abuse, because either of their indifference or declination to participate I deserve what is coming to me, and therefore the responsibility being cast upon the individual as a member of the party to keep it clean rises far above in its consequences any power of the legislature to keep it clean, because that is a burden which he must bear as a member of society, and it will make him protect his party better than it can be done by law.

Mr. SUTHERLAND (Cook). The gentleman believes that this is a government by parties?

Mr. GREEN (Champaign). I believe that parties are necessary for this government by the people.

Mr. SUTHERLAND (Cook). Does he think the clarity of views between party and party, which is essential to any successful functioning of parties will be improved by the participation in the affairs of one party and by its citizens who care so little for their party affiliations that they will for one consideration or another affiliate on one day of the week with one party and on three or four days later of the same week with another?

Mr. GREEN (Champaign). No, sir, on the contrary, I believe it is dangerous and therefore I believe that when under the law that result obtains, and the State has fallen down, and ever will fall down, the way to correct it is to put the responsibility back on the party for control by voluntary action of its membership.

Mr. SUTHERLAND (Cook). Does he think the history of the past of political parties untrammelled by legislation shows that they tended to pursue their own rights that way? Before there was legislature in the interest of the public as a whole to keep party lines clear, does he think that the parties manifested a decided tendency to keep their own lines clear?

Mr. GREEN (Champaign). I believe that the secret of the success of the birth of the party of Lincoln was due to the fact that there was no legislation which prevented the voluntary spontaneous outburst from the people, and their desire to affiliate for a common purpose, and forever purge some of the iniquities from the party of their predecessor, and it is within the history of all of us that the antagonist of the party that was born at that time has succeeded in purging itself not by these primary states, but by the state where independent leadership and independent action of policies and political economy because they were untrammelled of legislation.

Mr. SUTHERLAND (Cook). I would like to ask the gentleman if he thinks the operation of the direct primary law in the—I am not an exponent or defender of the direct primary law—but I want to know if he thinks the direct primary law will bring about the birth of parties, or the re-birth of parties, as proposed in this proposal?

Mr. GREEN (Champaign). It does not, but it defends the members of the parties from themselves, in this, the rank and file of the membership of parties from dictating policies such as now can only find expression in the birth of new parties. For example the great party that was born in Chicago, and which nominated a candidate for president, and nearly swept the country in the face of both of the old parties; the success of its operation was due to the fact it acted independently and because there was in the State which gave it its impetus, this good State of Illinois, a false theory of political expediency, in the certain impulsive act of preferential primary, and therefore prevented the party itself from so shaping itself that it might affect the good which was in the party, and weave it into the fabric of its composition.

Mr. SUTHERLAND. (Cook). That is all.

Mr. HULL (Cook). As I understand it, he would favor having the political parties purge themselves of this evil of groups of voters from the other parties coming into the primaries of this particular party by its own voluntary action, is that right?

Mr. GREEN (Champaign). I am trying to get a picture of just what that means. I have seen instances of groups coming to the polls saying we are entitled to vote at this particular primary, and there may be other groups standing at the polls which say you are not entitled to vote at this primary, if you do we will break your heads. That is a fine situation and if that is the thing he is trying to encourage I think it would be better if we had the present law.

Mr. GREEN (Champaign). In my humble judgment you and your colleagues have had some examples of the evil consequences that follow from the refusal of men of influence, if necessary to go to that kind of a caucus and assert themselves. If you cannot purify your party so it becomes a standard in the minds of the voters, it will reap its harvest in the failure of its ticket to secure the approval of the electors, but you do not hold it long by dodging that responsibility in having demagogues or corrupt politicians evade the law.

Mr. LINDLY (Bond). I move we adjourn—or rather recess until two o'clock.

Whereupon a recess was taken until two o'clock.

2:00 O'CLOCK P. M.

Committee of the Whole met pursuant to recess.

CHAIRMAN RINAKER. The committee will be in order. The question before the committee is the amendment of the gentleman from Kane. Any further remarks?

Mr. DAVIS (Cook). Will the gentleman from Champaign yield to a few questions? Under the proposal if adopted, I take it that it will be impossible to pass any legislation which will interfere with the managing committees of political parties in the matter of providing for the organization and the functioning of such political parties, by law?

Mr. GREEN (Champaign). I think it would be.

Mr. DAVIS (Cook). Then it would be possible for managing committees of political parties to provide for the representation of the voters of that political party in such conventions as parties may call from time to time, to provide for a scheme of representation?

Mr. GREEN (Champaign). Yes, I think so.

Mr. DAVIS (Cook). Is it fair to assume that arguments similar to the kind that have been made on the floor of this Convention, made by representatives of political parties residing out of Cook county, might limit the representation of Cook county in those conventions of political parties?

Mr. GREEN (Champaign). Yes, sir. There is no use denying it. Of course that is possible.

Mr. DAVIS (Cook). It would not be fair to assume that that is one of the objects of the proposal, would it?

Mr. GREEN (Champaign). I know it is not.

Mr. DAVIS (Cook). It would be fair to assume it?

Mr. Green (Champaign). There would be no use in saying it is impossible.

Mr. DAVIS (Cook). Under the proposal, it would be possible to bring about that sort of a situation?

Mr. GREEN (Champaign). Yes, sir, that is right. I assume, however, that the success of the political party depending in the end upon the support it would receive from the individual voters would preclude the probability of their doing it, but it would not be impossible.

Mr. DAVIS (Cook). Why? Wasn't that the very thing that was done in this hall?

Mr. GREEN (Champaign). I don't think it best that I discuss that with you in that way. I don't think that the things are parallel. Of course, there is a marked difference of opinion about the wisdom or the voice of the public generally approving or disapproving what may be done, but it would seem to me since you raised the question and seem to draw a parallel, that if it had not been for the fact that that whole proposition was ordered put up to the people of the whole State, to be determined by their majority vote, that it would savour of some of the vices which your question implies. I make myself clear, do I not?

Mr. DAVIS (Cook). Not quite.

Mr. MILLER (Cook). People are appealed to to vote for their selfish interest against principles, aren't they?

Mr. GREEN (Champaign). I won't admit that. If you leave out "selfish interests,"—the people are appealed to to vote their convictions of the particular scheme of government for that particular branch of government, but I would not say that they are invited to vote their selfish interests.

Mr. DAVIS (Cook). In the composition of the political parties, and the presentation of the deliberations of political parties to the voters, have you in mind any such scheme similar to the one which this Convention has adopted in the matter of representation in the General Assembly?

Mr. GREEN (Champaign). You mean in this proposal?

Mr. DAVIS (Cook). Yes, sir.

Mr. GREEN (Champaign). Why, no, I haven't even given it a single thought. I presumed it was either to go into the body of the Constitution or not go in at all, but I am referring to the thing which you mentioned as some action that the Convention took on another proposal.

Mr. DAVIS (Cook). Speaking as a delegate from Cook county, I understand the gentleman from Champaign to say to me that I need not fear the effect of this proposal if it is made a part of the Constitution, because the leaders of political parties will fear the action of the body politic on their policies, and will not unreasonably, I take it, restrict the representation of Cook county in such political conventions?

Mr. GREEN (Champaign). I should imagine that in so far as the people of Illinois, their right to vote at large, or in districts at large upon offices general to the State, or in the other case general to the district, that no political party would be so foolish as to ever think that they could hazard its success by limiting the representation of one part of the district or one part of the State, where the election for the office under the Constitution had to be at large over the entire State or district.

Mr. MILLER (Cook). Suppose both parties did that?

Mr. GREEN (Champaign). Both parties do what?

Mr. MILLER (Cook). Did the same thing?

Mr. DAVIS (Cook). The down State representatives of both dominant political parties adopt the scheme which the delegates in this Convention down State have adopted in the matter of apportionment, what then?

Mr. GREEN (Champaign). If they both adopted the same scheme, I would imagine that the elector would have a hard job choosing between them as to which was the lesser of the two evils, if such possibility be conceived.

Mr. DAVIS (Cook). You admit that in the representation of members of a political party it is right to discriminate against members of a party living in one section of the State?

Mr. GREEN (Champaign). No, that is not involved. The thing to which you refer does not concern any matter of State wide election at all.

Mr. DAVIS (Cook). Why not? Let us agree on the premise.

Mr. GREEN (Champaign). Because they are elected from districts.

Mr. DAVIS (Cook). Who are elected from districts?

Mr. GREEN (Champaign). The members of the General Assembly, that is what we are referring to; they are elected from districts.

Mr. MILLER (Cook). How about the Governor?

Mr. GREEN (Champaign). I will come to it. They are elected from districts, and therefore the element of limitation as to the proportion of representation from the district in the legislative branch is precluded from consideration in the State at large, but nobody has suggested any such limitation for any member of the executive department, and in so far as the application of this principle is concerned, if it be confined to the district, it would in no sense be possible of abuse in the manner you suggest, because they could not apply it to executive offices.

Mr. DAVIS (Cook). If the gentleman from Champaign were a member of a managing committee of the political party of which he is a member, would he stand up for the principle of equal representation of all the members of his political party at any convention which is to nominate State officials?

Mr. GREEN (Champaign). For executive offices, I most assuredly would.

Mr. DAVIS (Cook). And what is the distinction between executive officers and the members of the legislative department of the government?

Mr. GREEN (Champaign). You don't mean the question in the abstract, but you mean why should the principle be one way as to one, and the other way as to the other?

Mr. DAVIS (Cook). Yes.

Mr. GREEN (Champaign). That has been debated on the floor so eloquently and so ably by other delegates.

Mr. DAVIS (Cook). And convincingly.

Mr. GREEN (Champaign). Well, yes, convincingly to my mind, and while it has engendered a difference of opinion, it all was summed up in a declaration in the closing argument that it was designed to prevent a possibility of all three of the departments of government being possibly controlled by one particular area of small dimensions in the State; not that it was to be limited as to the other department, but it was limited as to that.

Mr. DAVIS (Cook). Well, the gentleman from Champaign desires to be more accurate than he was in the statement just made, doesn't he?

Mr. GREEN (Champaign). No. You said if the principle were applied generally to all offices, would it be capable of that abuse? It would, but if it is in the Constitution itself, it is prohibited from being applicable in the way you suggest to executive offices, in the sense that they could deprive the elector of his State wide vote on them. It may be applied to the representative officers, but could not be abused for the reason that the representative officers come from particular districts within which there could be no discrimination.

Mr. DAVIS (Cook). It would certainly have a bearing on the matter of nomination, because the nomination would be made by representatives from the different sections of the State in Convention assembled?

Mr. GREEN (Champaign). Nomination for executive offices?

Mr. DAVIS (Cook). Yes, sir.

Mr. GREEN (Champaign). Oh, I don't think so at all.

Mr. DAVIS (Cook). What do you think?

Mr. GREEN (Champaign). I think that the managing committee of a political party that wanted to succeed and expected to make votes with the people in so far as executive officers were concerned, would be compelled to see to it that there was no limitation of any one corner of the State in its representation to the nominating Convention for officers in the executive branch of the government, else it could never succeed.

Mr. DAVIS (Cook). Then if your proposal becomes a part of the Constitution, the only protection in fact to those of us who come from Cook

county is the wisdom of the leaders of the dominant political parties of the State?

Mr. GREEN (Champaign). Not at all.

Mr. DAVIS (Cook). What is our protection?

Mr. GREEN (Champaign). Protection from what?

Mr. DAVIS (Cook). Protection from the proposal, and the domination of the down State portion of the State of Illinois?

Mr. GREEN (Champaign). You mean as applied to executive officers?

Mr. DAVIS (Cook). Yes, sir.

Mr. HAMILL (Cook). As applied to a nominating Convention.

Mr. GREEN (Champaign). As applied to nominating for executive officers its safety lies in the fact that there is no limitation against any part of the State for the election of executive officers, and therefore, the nomination must be made in view of the fact that there is to be a State wide election for executive officers. That is the protection.

Mr. DAVIS (Cook). Will you answer just one more question? May we not take it for granted, if the delegates from down the State in this Convention are representative of their constituency, that those residing in Cook county may expect similar treatment in Convention as was received by Cook county in this Convention? That is the question.

Mr. GREEN (Champaign). Are you speaking about Conventions for nominating executive officers?

Mr. DAVIS (Cook). Yes, sir.

Mr. GREEN (Champaign). Pardon me if I say frankly that there has been nothing done in this Convention that justifies the least fear that as to executive positions there is any justification for fear.

Mr. DAVIS (Cook). I am not splitting hairs. The principle was applied to the legislative department. Now, I asked the question whether if I am not sound in having some fear that the same principle which was applied in this Convention to the legislative department will be applied to the executive department in political conventions?

Mr. GREEN (Champaign). No, sir, I cannot concede to that suggestion. I think you are mistaken entirely.

Mr. DAVIS (Cook). And you want to disabuse my mind that there was no intention to bring about that result in the drafting of this proposal?

Mr. GREEN (Champaign). Certainly? If it could be thought that any such purpose was in it, it would be the duty of every man here to vote against it.

Mr. MILLER (Cook). Mr. Chairman, may I ask the gentleman a question? Of course, I would not say or think for a moment that there was any purpose to accomplish the thing that General Davis has suggested. If anything, it might be purely a lucky accident; but what I had in mind is this: It seems to me that you did not quite clearly answer his question. A nominating Convention, of course, is a representative body the same as a legislature, isn't it?

Mr. GREEN (Champaign). It should be. That is not the same, but organized in somewhat the same way.

Mr. MILLER (Cook). On the same principle.

Mr. GREEN (Champaign). Constructed somewhat similarly.

Mr. MILLER (Cook). Now, of course, assuming that your proposal here goes through, which says to the legislature, "hands off in political organization," then as you frankly told General Davis, the political organization of the Republican party and likewise of the Democratic party, might at this time, while the majority of the State residing outside of Cook county, fixed the basis of representation in the State Convention which nominates the Governor and the Attorney General and the Secretary of State and the State Treasurer and so on; that is right, isn't it?

Mr. GREEN (Champaign). I said that such a possibility could prevail, but I thought I tried to demonstrate how improbable it was.

Mr. MILLER (Cook). You thought it probably would not happen. Of course, the possibility is that the down State members, while the down State is in control, would fix a representation so that Cook county would have,

we will say, to put it very strong, one-third of the representation in the State Convention and having that representation would continue then on from year to year after Cook county perhaps had three-fifths or more of the population of the State. That is a conceivable thing, isn't it?

Mr. GREEN (Champaign). No, it is not. Let me make this answer to that. Of course, we are having an academic discussion for the benefit of the argument of this matter, which was disposed of the other day, but let us just face it, because we cannot fool anybody here.

Mr. MILLER (Cook). You can fool some of us, but not all.

Mr. GREEN (Champaign). I would be charitable enough to think that we are all wise enough for that, and that is not paying any compliment to us. Now then, just let us take all the varnish off and look at it. Let us suppose that you gentlemen have been imposed upon in the legislative apportionment.

Mr. MILLER (Cook). No, let us not assume that.

Mr. GREEN (Champaign). Let us suppose that for the purpose of the argument; and that by virtue of that fact there is a ground for fear that something is going to happen that by virtue of that limitation you are going to be deprived of your full voice in the selection of State wide candidates by the electorate.

Mr. MILLER (Cook). No, no.

Mr. GREEN (Champaign). That is the question you asked me, if it might not happen.

Mr. MILLER (Cook). No, we have nothing to do with that proposition.

Mr. GREEN (Champaign). That is the whole question you asked me, if it does not give rise to the fear that the same limitation might be applied for the nomination of a ticket?

Mr. MILLER (Cook). Yes.

Mr. GREEN (Champaign). Let us suppose that it does exist. Let us suppose that your answer was in the affirmative. Now, gentlemen, just look here for a minute. If, perchance, a mistake was made in limiting the representation in the General Assembly, and if it would be conceded that the delegates elected to this Convention have with studious care committed a grievous error against the rights of the people of a certain district, if that be conceded, wouldn't it appeal to you that if you could take away from the agency of government, which is to be created by virtue of that limitation, to-wit, the legislative department—wouldn't it be a safeguard to you to know that this same legislative department that is to be created in what you deem an unfair way, is to be by this proposal deprived of the chance to ever by law restrict and limit your representation in the choice of executives, and don't you think you ought to want this for your protection instead of attacking it as a motive to have the individual electorate do it? And if you took that view, don't you by that very act express your lack of confidence in the people themselves and prefer to trust this legislative assembly that is to be created, as you say, upon an unfair plan?

Mr. MILLER (Cook). Where would be our protection if the legislature was merely prohibited from doing what the party organization under the control of the same men can do?

Mr. GREEN (Champaign). If the legislative assembly owes its existence to something which is unfair, and it is to be deprived from passing laws which will restrain and interfere with the liberty of the individual citizens, to deal fairly and express each individual vote in the choice of the executive department, aren't you protected instead of endangered?

Mr. MILLER (Cook). I am not saying anything about the vote on the executive, haven't suggested that. I have spoken about the representation in the nominating convention. I don't see how you could have misunderstood it.

Mr. GREEN (Champaign). For executive officers?

Mr. MILLER (Cook). Yes, and the fact that the party organization under your plan can restrict the vote in Cook county in that State Convention just the same as it has been restricted here.

Mr. GREEN (Champaign). Then doesn't it simmer down to this: Would you rather trust this legislature that is going to be elected under this false theory of government that you have so much abused, would you rather trust it than you would trust the managing committee of your own political party?

Mr. MILLER (Cook). I don't think it makes any difference one way or the other, and you are putting the managing committee of the party in the same place that you have put us in regard to the legislature, all the time saying that, "of course, you will be unrestricted in the selection of a Governor and other State officers." Now, as I say, I haven't the remotest idea that there was any intention of doing that, and yet you have admitted that that is a possible effect, and personally, I fear the effect just as much as if that had been the intention.

Mr. GREEN (Champaign). Sure, I admit that it is a possible effect, but I invite your candid judgment upon whether you would rather trust this political party which depends for its existence and vitality upon the individual vote, in preference to trusting this same legislature that you say in very plain terms is organized on a false theory?

Mr. MILLER (Cook). Of course, I don't see how getting out from under the legislature helps us in any way when the party management that is capable of doing the same thing is itself under the control of the same element. It seems to me absurd.

Mr. DAVIS (Cook). If the gentleman from Cook will pardon me, there is one more answer. The gentleman from Champaign insists on theorizing in place of pointing to actual experience. I am here to tell the gentleman from Champaign that in all the days of the existence of the General Assembly of the State of Illinois, no such unfair attitude and no such unfair action has been taken by the legislature as has taken place within this hall last week, and I would much rather trust the legislature, any day.

Mr. LINDLY (Bond). They only lacked one vote on it.

Mr. DAVIS (Cook). Well, there was one high principled man, I would say.

Mr. TRAEGER (Cook). Mr. Chairman, while I do not personally approve entirely of our system of primary voting, I believe that this should be left to the legislature. I believe that the legislature when in session will take into consideration the wants and necessities of the voters and people in this great State. Going back to this proposal I am going back years. You and I and every delegate in this Convention knows how many years they have discussed the proposition of changing from the old system of primary elections and nominations and I believe that if we place this in the Constitution, we are tying the hands of the legislature for all time, and I sincerely hope that the delegates will feel that they will trust the legislature at this time to do that which is for the best interest of all the people, and I hope that this proposal will not prevail.

Mr. DAWES (Cook). Mr. Chairman, I feel that this is a matter that is of great interest to our constituents, and to all the people of the State. I feel impelled to express my sentiments on this subject, and I regret that I have not availed myself of the opportunity, if I had it, to prepare myself thoroughly to present such views as I have upon this matter. The situation that is presented to this Convention is entirely a different situation from that which was considered by the Convention in 1870.

At that time the organization of political parties, their governments, the relation of those parties and the governments of those parties to the State itself was upon distinctly a different footing from that which prevails today. When the article upon suffrage was considered in the Constitution of 1870, it was not supposed by any one that it had anything to do with the control of political parties. When these primary laws were passed, intended to correct grave political abuses, they gradually became applied to a wider and wider area of political activity, and they have made legal the control of political parties. In my opinion, they were intended originally to supplant a method of selecting candidates. In their present application

they are generally understood by the people to control the actual elections in the State and to be a part of the essential machinery of government. In other states similar provisions to those contained in the Constitution of 1870 have been adopted, and laws similar to our primary election laws have been adopted. Such cases have come before the court as this, for instance, that the managers of certain political parties have wished to extend to women a right to participate in the proceedings of those political parties, and the question has come before the court as to whether it was within the power of a political party to extend the right to participate to women when women were not allowed to vote at official elections; and in one of these cases, the court made these expressions which I should like to read to you, for it expresses my own sentiments in this particular matter:

"A political party is nothing more or less than a body of men associated for the purpose of furnishing and maintaining a prevalence of certain political principles or belief in the public policies of the government. As rivals for popular favor they strive at the general elections for the control of the agencies of the government as a means of providing a course for the government in accord with their political principles and the administration of those agencies by their own adherents. According to the soundness of their policies and the wisdom of their principles they serve a great purpose in the life of a government, but the fact remains that the objects of political organizations are intimate to those who compose them. They do not concern the general public. They directly interest both in their conduct and in their success only so much of the public as are comprised in their membership, and then only as members of the particular organization. They perform no governmental function; they constitute no governmental agency. The purpose of their primary elections is merely to enable them to furnish their nominees as candidates for the popular suffrage. To provide nominees of political parties for the people to vote upon in the general elections is not the business of the State. It is not the business of the State because in the conduct of the government the State knows no parties and can know none. Political parties are political instrumentalities, they are in no sense governmental instrumentalities."

They are in no sense governmental instrumentalities, and yet they are the source and origin of public policy. The method of control of these political parties has been the method of the people, selected by the people, to form and to disseminate public opinion. It has been in the Conventions of our political parties that the voice of the individual has been heard. It has been upon that forum that the spread of public opinion has been accomplished; that the agency of the Convention of political parties has been the educating influence for our young men; it has been the directing agency of our government itself. It is as distinctly a private organization as a church organization or a lodge or any other association of men gathered together for their own purposes.

Now, I do not believe that it is either a departure from the policies of this government, nor from the attitude of the people towards questions of this kind, to declare that so far as this Constitution is concerned it is not the intention in this Constitution to put it within the power of the legislature to control that private organization; that we desire, rather to leave to the people the utmost freedom of political association. The right of the people freely to gather together according to methods of their own, to adopt policies, to discuss policies and to select officers is their private right that ought to be enjoyed by the people themselves. It is necessary, therefore, to consider putting something into the Constitution, because there is a deep seated misconception in the minds of the public that these primary laws are laws that ought to be controlled by the State, and that this method of political association is one that ought to come under the control of the State.

For my part, I believe that the people themselves should be free to adopt their own methods of political organizations, their own methods of control of political organizations, and to name their own candidates according to such methods as have the sanction of tradition and practice in this country, or even such as appeal to the members of that political organization them-

selves, and that we ought to take such steps as are necessary to give notice to the legislature and to future generations that this is the relationship that we believe exists between political parties and the State government.

Mr. BRANDON (Kane). Mr. Chairman, will the gentleman from Cook yield to a question? Is it your thought, Mr. Dawes, that any group of citizens who have a common, selfish interest outside of politics should be permitted to organize a political party?

Mr. DAWES (Cook). It is certainly my opinion that there should be nothing in the Constitution to prevent their doing so.

Mr. BRANDON (Kane). Even though they take advantage of the political party for the purpose of advancing a particular selfish interest which is common to all of them?

Mr. DAWES (Cook). I certainly think that the government ought to avail itself of selfish interests, because they are in the majority, and I think that any class of our people ought to be free to form themselves into a political party if they want to do so. The farmers' organizations, the labor organizations, any of them, their freedom to form themselves into political organizations ought not to be restricted. I would vote against your amendment, and I will vote in favor of the proposal.

Mr. BRANDON (Kane). You think, for example that those who have a common economic or religious interest should be permitted to centralize that interest in a political party?

Mr. DAWES (Cook). I do.

CHAIRMAN RINAKER. The question is upon the adoption of the amendment proposed by the gentleman from Kane.

(Amendment lost.)

CHAIRMAN RINAKER. The question now recurs upon the adoption of the amendment as offered by the gentleman from Fulton. Are there any further remarks on that question?

Mr. CORLETT (Will). Mr. Chairman, I am not at all certain that the delegates to this Convention understand all that this proposal means. I am perfectly sure that I do not. It seems, however, in the discussion that the author says that it would nullify certain kinds of primary law. I take it for granted that it would nullify all primary law, that it would be impossible hereafter to ever enact any primary law for the governing of nomination of candidates.

It is only a few years ago that the people of Illinois demanded the direct primary law now upon our statute books. The reason for that was that powerful political organizations had made nominations by force and fraud at different times, and so for the purpose of correcting this evil the people demanded a primary law with the hope that it would prevent those practices, and if it did not, that candidates would have a remedy. It has been well stated here by the gentleman from Cook that this is a legislative and not a Constitutional question. We do not always think the same thing in Illinois, and it would seem to me unfortunate if this matter were taken out of the hands of the legislature and the people bound by this provision in the Constitution. We seem to remember the pleasant things in life and forget the more unpleasant ones. We sometimes travel around in a circle. At one time in the history of this State we were in the banking business. It was not profitable as a State institution, and the State lost money, and for a great many years we were not anxious to embark in the banking business in Illinois, but now we have reached the point where we are not afraid of the proposition any longer, and we think that we ought to have a State bank, or many of us think that.

At one time in Illinois we were in the railroad business, the building and operation of railroads. It was not profitable to the State, they lost money, and finally the people decided that they did not want to continue in the building and operation of railroads. In fact, it would have bankrupted the State of Illinois if we had continued, and yet we have got around again to the point where a great many other people are ready to engage in the acquisition and operation of railroads. It is only a few years ago that the Utilities Commission heralded as a progressive measure, enacted in the State

of Wisconsin under the leadership of Bob LaFollette, was demanded by the people of Illinois, and three great political parties indorsed it and approved it in their platform, and that has only been a period of about eight years, and now we have got through with that, and there is probably more sentiment in the State against it than there is for it.

And so, my friends, I mention these matters for the sole purpose of calling to your attention that while a great many people today are in a hurry to condemn the direct primary law, the same people may next year or five years from now be among the loudest to demand the primary law. I will again say we are traveling in a circle, and we often get back to the place from which we started. There will be in the future the same demand for a direct primary that there was at the time that the acts now upon the books were enacted, and I want to submit this, that it is not at all certain under this proposal that you could hold a general election under regulation of law. There is nothing in that proposal that would indicate that any step taken by a political party or by candidates for office could be taken under the slightest regulation of law. All it means, I do not know. I do not believe that any of us are prepared to say what construction might be placed upon it. For these reasons, gentleman, I am against the pending proposal.

Mr. WALL (Pulaski). Mr. Chairman, last May the very able and distinguished delegate from Champaign brought this proposal before the Bill of Rights Committee, of which the chairman of the Committee of the Whole now is chairman, and of which I have the honor to be a member, together with the gentleman who has last spoken from Will county, and delivered to that committee a very able address upon his reasons for its introduction. I think it was the consensus of opinion of the committee at the time that it was so fundamental and far reaching in its character as to deserve second, and third and fourth consideration. Some members of the committee said, "We cannot get it exactly." Others said, "it is not just now understandable." Others said, "we will study it," and many of us did give it some consideration.

Now, the more it is discussed, the clearer it seems to me that the main purpose—there are many purposes involved in this—but the main purpose is to make null and void any act of the legislature controlling political parties or their procedure, and to drive a death blow at the primary election law, such as will cause it never to be resurrected. I do not understand that this proposal prohibits the legislature from passing a primary law. Am I right about that, Mr. Green?

Mr. GREEN (Champaign). It does not.

Mr. WALL (Pulaski). The legislature may still pass a primary law, it may cause and compel a primary system of elections, but the option to either obey that law or disobey it, to become a follower of the law or a breaker of the law, remains entirely in the breast of the political parties of the State. It can be denominated a dead letter under this amendment and disobeyed, and they can obey the act of the legislature.

Mr. GREEN (Champaign). If the group agree to accept it, they are bound by it.

Mr. WALL (Pulaski). Certainly, if they agreed to accept it, but I say they could disobey it or obey it. Now, in the first place, that gives rise to a constitutional approbation of a violation of law. I doubt if that is a good thing to do. I doubt if we ought to admit by a constitutional enactment and say that we authorize the legislature to go ahead and pass a primary law, and in the same enactment say that political parties may disrespect and disobey that law at will. Does that or not tend to create contempt for law?

Gentlemen, this is still a government of law and not of men, in my judgment. There isn't any doubt but what the first provisions of this article that exist to their very fullest extent, that is to say, that the right of the citizen at all times to freely and voluntarily organize, promote or affiliate with any political association, man or candidate exists. Every citizen has the right now, notwithstanding this proposal, or if it never existed, to freely and voluntarily organize promote or affiliate with any political association,

movement or candidate, but the objection to it is that this organization, promotion and affiliation of any movement or candidate is hampered and restricted by legislative enactment to a point where a citizen does not at all times exact his right and his liberty of association and affiliation in the way and in the manner that he wants to do. That is where the objection is raised by the proposal and where objection is made along the lines of restraining of universal personal liberty relating to political affairs.

Now, comparison has been made here with political parties and organizations, that they ought to have the same unrestricted freedom that religious organizations have. Is that a good comparison? Religious organizations may be formed over night. A man may belong to the Methodist church today and it may be holding a revival meeting, and between two o'clock and six o'clock he may organize another church on the theory that he is allowed to worship God according to the dictates of his own conscience, and he could appeal to the organization and get as many adherents to it as he pleased, but, gentlemen, that is a matter between him and one being, God Almighty. It is not a matter between him and the State, it is not a matter between him and the people, it is not a matter between him and recognized organic law, but it is a matter between him and God alone as to what he does, and so long as he does not interfere with law and order, and so long as he does not, as the delegate from Chicago says, drown his child in the river as a method of worship, he is unrestricted. But, now, if we carry this to the same extent that we would religious freedom, is it not true that a man can go into a Republican primary election or convention at two o'clock and vote for candidates in that Convention for office to be filled, and before the polls close on the evening at five o'clock of the same day, were he not restricted by statutory enactment that he cannot vote but once, would he not have the right under this to go back into the polls if he voted the Republican ticket first and call for a Democratic ticket and vote the Democratic ticket and thereby vote twice?

Mr. GREEN (Champaign). May I ask a question? Wouldn't the political party itself have the right to prevent that?

Mr. WALL (Pulaski). Absolutely.

Mr. GREEN (Champaign). Wouldn't they do a better job than the law is doing now?

Mr. WALL (Pulaski). But would they do it, and would it not lead also to the organization, if now without any legal restriction at all, of multifarious and almost numberless political parties, and would it not in the end lead to confusion, to an immense ballot and to construction by the courts in such a way as to not be practical? Here is a county that has a great many colored votes in it. Some colored men want office. Here is another crowd of men that are lily whites. Wouldn't they organize under their unrestricted freedom a lily white organization? Here is another organization that believes that all the clerical offices should be held by the women; wouldn't they organize a women's party?

Mr. GREEN (Champaign). May I ask another question, Judge? Hasn't the primary law resulted in multiplying political parties many times more than existed before they had any primary laws?

Mr. WALL (Pulaski). I think that is true. I believe that to be true not only in this State but in other states, but I do say that if you would take the bridle entirely off so that a party can be organized over night with three members in it or twenty members in it, to a political unit or any given number of units, that you would probably have a further multiplication of parties. Under the primary law there must be so many persons sign a petition, there must be so many members of the party before they are entitled to a place on the ticket. Now, I think that the primary law is odious, I think it is contemptible, in some places it is ridiculous in this State, it is a farce, but I doubt the wisdom of saying that we should put into our Constitution here a proposal that will forever prevent the legislature, not by way of prohibiting it by law, but because its acts would be perfectly useless, prevent the legislature from ever passing a primary law in all the years to come. It is pretty hard for us to fathom out in our minds

here just what may happen 20 or 30 or 40 years hence, and for these and some other reasons I believe that I shall be compelled to vote against this proposal and the amendment.

Mr. LINDLY (Bond). Mr. Chairman, I do not rise for the purpose of discussing this question, only to answer in part the questions that were asked by the two gentlemen from Chicago who feared that if the party controlled, that they would not have a voice in the election of the executives, and to call their attention to history. The facts are that when the party was controlled by party management up to 1908, that the Chicago delegation absolutely nominated the Governor in the Conventions, and it is a fact that since the primary laws have been in effect that there has only been once that Chicago did not nominate the candidate for Governor, and that was in 1908 when Charles Deneen lost the city by 75,000 and the State nominated him by 7,000. I think out of the 32 years referred to, Chicago has had a resident Governor for 20 years. I don't think you have much to fear on that proposition.

Mr. DEYOUNG (Cook). Mr. Chairman, may I ask the gentleman from Champaign just merely for elucidation, not for any other purpose, a few questions? As I understand this proposal, it denies the application of any primary law to nominations by a political party, if a political party chooses to reject a primary law?

Mr. GREEN (Champaign). If the primary law operated to interfere with the freedom of action of the citizen, yes.

Mr. DEYOUNG (Cook). I mean to say now, confining myself to the amendment here, "any political party or association may adopt or reject the provisions of any general law regulating the nomination of candidates for public office." So that it is optional altogether with the political party to adopt or to reject any such a general law?

Mr. GREEN (Champaign). Yes, for the State or any political subdivision thereof. They might adopt it for the State wide election, but we say that it should not obtain in the choice of smaller offices.

Mr. DEYOUNG (Cook). When you speak of political subdivision my attention is called to the fact that your terminology is not the same. In the sixth line you use the words "municipal subdivision."

Mr. GREEN (Champaign). The amendment was delegate Taff's. It was intended however to refer to the municipal subdivisions of the State.

Mr. DEYOUNG (Cook). When you say municipal subdivisions, that to my mind is not altogether clear. If you said municipality, it would probably be broader, I presume. Subdivision has reference to a subdivision, such as a county, and then the subdivisions of a county, as a township. We somehow speak of a municipality as a subdivision of the State, because it is superimposed upon a political subdivision.

Mr. GREEN (Champaign). Political subdivision would be best.

Mr. DEYOUNG (Cook). Pursuing the inquiry just a little farther, the limitation here is that the right of a citizen to organize, promote and affiliate with any political association and movement and so on is limited by the provision that it must not be calculated to destroy or embarrass, nor tend in that direction, a republican form of government. That is the limitation upon the activity of a citizen, is it not?

Mr. GREEN (Champaign). Yes. You mean whether that excludes any other limitation? I should say it excludes any other limitation that is not expressly forbidden by some other article of the Constitution.

Mr. DEYOUNG (Cook). Yes, but the limitations upon the activity of the citizen in these respects must necessarily be constitutional and cannot be legislative, otherwise it could serve no purpose.

Mr. GREEN (Champaign). I expect that is right.

Mr. DEYOUNG (Cook). Now then, apart from any other limitation there may be in some other article of the Constitution, the only limitation we find here is that these activities must not destroy or tend to destroy or calculate to destroy or impair a representative form of government.

Mr. GREEN (Champaign). That is all that is expressed.

Mr. DEYOUNG (Cook). Is it not a fact that when it came to the determination of the question whether or not a certain thing proposed was or was not compatible with a republican form of government, the Federal Supreme Court has held that that was a political and not a legal question for the courts to determine?

Mr. GREEN (Champaign). No, they hold it is political if the courts of the states sustain it as within its own Constitution, but it is not political in the sense that it need not conform to the Constitution of the State, as I understand it.

Mr. DEYOUNG (Cook). I know, but that, of course, would necessarily be a Federal question arising under the provision of the Federal Constitution guaranteeing a republican form of government, and the Federal courts could hardly evade the question unless it were necessarily on its merits a political question.

Mr. GREEN (Champaign). Yes, unless it were such a question as that the courts of the State had jurisdiction to settle.

Mr. DEYOUNG (Cook). If the view should be held by the Supreme Court of the State that certain activities of a certain political party, or of a citizen or citizens grouped in a party—that it was a political and not a legal question, the courts refuse to determine it, it might be one near the border line and yet be fraught with grave consequences?

Mr. GREEN (Champaign). The doubts would be resolved in favor of the liberty of the citizen. That is what you are coming to?

Mr. DEYOUNG (Cook). Yes. Now the courts would refuse to take cognizance of this situation, and on the other hand, you have denied to the legislature in large measure anything in the way of regulation, too, by its enactments, have you not?

Mr. GREEN (Champaign). But I think the voice of the legislature would be conclusive if there was opportunity under any construction to sustain it, against the vice that was alleged to be calculated to undermine a republican form of government.

Mr. DEYOUNG (Cook). But you have certain guarantees here which limit the domain of legislative authority.

Mr. GREEN (Champaign). I think whatever the legislature would define as inimical to the institution of the government itself would be conclusive, unless it would be clear that it could not possibly come within that definition.

Mr. DEYOUNG (Cook). If the legislative branch in the exercise of its judgment should regulate certain practices and those practices are not subject to the courts of review, then do you solve very much by the pending proposal when you cannot limit the legislature in regulating the situation?

Mr. GREEN (Champaign). You do limit the legislature in that it must be germane to that subject matter. Every article of the Bill of Rights is subject to the same constructions, for instance, the section on religious freedom. Now, there are certain things they may do.

Mr. DEYOUNG (Cook). You are telling us here and dealing more closely not with individual rights but you are dealing here first of all with one limitation, namely, what is inimical or incompatible with the republican form of government which, of course, is not at all a question of the individual right of the citizen. Here you are saying to a group that they have certain rights which are forever guaranteed, except when they are incompatible, with the republican form of government. Now, I want to find out whether the court is to determine what is incompatible or whether the legislator is to determine?

Mr. GREEN (Champaign). Pardon me, but you broaden the force of it. That only applies to his right to voluntarily organize and promote political organizations and affiliate with them.

Mr. DEYOUNG (Cook). Then you have said farther on, in a very general phrase, "not consistent with the public welfare."

Mr. GREEN (Champaign). That is as to the activities of the political parties, and that is what we have, that the State may reserve to itself the

power to exercise its police power to prevent force or frauds or abuses that were clearly in the interest of the public welfare to be legislated.

Mr. DEYOUNG (Cook). Precisely, but your amendment denies that. We have now or we will have in the future a primary law which has certain penalties for frauds, for disorders, for violence and other crimes that are attendant upon a primary election, but you put it in the power of a political party or association absolutely to limit the provisions of that law altogether. You have said it affirmatively.

Mr. GREEN (Champaign). Pardon me. If that idea is extant, it is entirely at variance with my own idea. My own idea is that if you confer upon the legislature the power to correct the voluntary action of political parties in the sense that they must be consistent with the public welfare, that they would not run wild as they used to, and that legislation is invited which would at least be restrictive against abuses that would operate to violate the ethics or to violate the laws of the State that were deemed by the legislature contrary to the public welfare. I take the other view of that; at least, that is what I have tried to express. You may be right about that, but that is my purpose.

Mr. DEYOUNG (Cook). It seems to me that the specific provision would overrule the general one which immediately precedes it.

Mr. GREEN (Champaign). That only applies to the conduct of primary elections, but I think the general law with reference to particular things that were declared to be misdemeanors—for instance, if it be held to be a misdemeanor for any political party to fraudulently miscount a man's vote where it was going through the form of holding a primary election, I think the law could be enforced and the penalty imposed.

Mr. DEYOUNG (Cook). In the primary election?

Mr. GREEN (Champaign). Yes, it would be general. I think it could be imposed with reference to the election of directors in a corporation or trustees of a church, or in a primary election, a general law.

Mr. DEYOUNG (Cook). We have a primary law, we will say, that is in force.

Mr. GREEN (Champaign). It need not be in a primary law. It may be an absolutely independent statute defining a misdemeanor that anybody who would do that thing, who would deprive a man of his vote cast at any election, should be guilty of a misdemeanor.

Mr. DEYOUNG (Cook). So that the specific provision of the primary law, while that could be rejected and would only apply to these offenses in the conduct of primary elections—

Mr. GREEN (Champaign). It was only intended to apply if they adopt it for particular subdivisions or reject it. It was not intended that at the whim and caprice of political parties they could adopt part of it and reject the other part, but the purpose of Mr. Taff was that if they held a county convention, that we might, if we saw fit, in the townships in that county reject the primary.

Mr. DEYOUNG (Cook). I understand that very well, but here is a city, a certain political party of that city has rejected the provisions of the primary law that is in force. Now, there is only one primary law that governs the nominations of candidates of political parties in force at this particular time; that is, a certain class of officers in that particular law is rejected, that includes that whole matter, and it has no application to the nomination, we will say, of these county candidates, with all the penalties and all the inhibitions against violations and fraud and all those things, it is all cast aside by this particular political party.

Mr. GREEN (Champaign). The party said, "We will control this primary ourselves?"

Mr. DEYOUNG (Cook). And it goes on in its own way.

Mr. GREEN (Champaign). But if there were a general law that even when they do that, that particular frauds or particular acts amounted to misdemeanors, it would not have any reference at all to the primary election law, and still it might be made a misdemeanor.

Mr. DEYOUNG (Cook). Granted that your premise is correct, yet in the criminal code there are not sufficient penalties and inhibitions covering all the particular things that are met with in the primary or general elections.

Mr. GREEN (Champaign). That is right. Pardon me, I think that that is a misunderstanding that seems to prevail, that it would interfere with the legislature defining the method of making an election valid. I don't think this would do that. They could define how the names should go on the election ballot, either as the result of the holding of a caucus or ballot or any other way, and it would tend to lessen the number of names on a ballot. All they have got to do now is to go out and circulate a petition and put in the names and put the man's name on the ticket. Now, all laws governing elections and how the ticket shall be made up, would in no sense be in violation of any of the provisions of this proposal.

Mr. DEYOUNG (Cook). I think you are correct about the general election, but we have been told in recent years that a citizen is not only interested in voting to elect a candidate, but he is also interested in the selection of the candidates to be voted upon.

Mr. GREEN (Champaign). We will both agree that the Supreme Court tried for about ten years to instruct the legislature that that was a false doctrine of political economy until they finally framed a law that got by.

Mr. DEYOUNG (Cook). I don't know as they exactly said that.

Mr. GREEN (Champaign). That is what we felt down State.

Mr. DEYOUNG (Cook). Then whatever you may think about the primary law, I am inquiring here whether we are opening the door wide to all sorts of faults and abuses without the power of the legislature to correct them.

Mr. GREEN (Champaign). I don't think so.

CHAIRMAN RINAKER. Any further remarks?

Mr. GREEN (Champaign). I would just like to say this: Now, the whole argument that has been advanced against the danger of this proposal and the things that will grow out of it is that Democrats could vote in Republican primaries and Republicans vote in Democratic primaries. Now, gentlemen, can you conceive any way by which the legislature can bind a man to support the nominee of a primary? It is presumed he will do it. This seems to me to be the kernel of the thing and the reason why we ought to have something in the Constitution.

I had no idea how the delegate from Chicago, Mr. Dawes, felt about this, and I was certainly interested in his discussion which covered the whole subject. I have no pride of authorship. It may be this one is dead wrong the way it is presented, but let me state the kernel of this whole situation, what does purify primary elections, and what is the reason for it, and what is necessary to purify it? Isn't this true, the only thing that purifies primary elections is to have the people who participated in that election support the nominees of that primary? Now, that is what purifies it, and that is the only thing that purifies it. Don't we all agree about that?

Now, will you tell me how the legislature can pass a law binding a man to support the nominee of a primary? Would it be constitutional to provide by a law that a man who votes in the primary of the Republican political party shall be bound to support the nominees of that party? I don't believe it would be constitutional, and I don't know exactly why, either. I have thought of some reasons why, but as I analyzed them, arguments appeared to refute them, because let us go farther; let us suppose it would be valid, that a valid law could be passed binding a man to support the nominee of his caucus or his primary. Here we have a primary and the ticket is nominated. What remains to be done? Why, they add up these votes that are cast at the primary, then they say to the dear people who did not vote, "Now then, the rest of you vote." We count so many votes for this ticket now, and see what a farce these elections would be.

Now, gentlemen of the committee, isn't there something the matter with the machinery of government when that situation prevails? And this proposal was drafted after a conscientious study to try to find something that

would purify the method of nominating candidates and would give the opportunity for everybody, rich or poor, to have his equal chance for nomination in support of a great policy of government. May I return and emphasize this one thing? The kernel of the whole thing is how can you purify primaries? There is no way to purify primaries except to do those things which will most forcibly invite those who participate in the primary to support the nominees of that primary. Can that ever be done by law? And I do not want this debate to close until someone answers that question. Can you ever by law purify primaries or make the system any better? And isn't it true you cannot, for the reason that you cannot by law say to a man today as to how he will vote at the election. Isn't that the reason? And you ought not to be allowed by law to do that thing. That is a restraint, that is a limitation of the liberty of the citizen which never ought to be imposed by law.

Therefore, to where are we driven? We are driven back to this situation, to purify primary elections or nominations, whether by primary or otherwise, we are driven back to this position from which we cannot escape, that the purity, the integrity of primary elections under our form of government, a self-governing people, must ever rest upon the voluntary action and the willing obedience, not by coercion, but by choice, of the individual members of the political unit, and it calls upon the conscience of the individual as a member of a party to search his own heart to see if he must not assume and discharge as a part of his responsibility for the success of his government the burden of making his own political machinery. And in carrying that into execution, where our parties control their own policies always in our primaries or our caucuses or whatever kind of thing we have, we drew a resolution defining the qualification of voters at this primary election, and we said those who are affiliated with the particular party of which we were holding a caucus or the convention or the primary, and who pledged themselves to support the nominees of this Convention, are entitled to vote.

Before this debate closes, it does seem to me, gentlemen, that if this proposal is all wrong that somebody here ought to solve for us how we can by law accomplish that end, namely, bind a man to support the nominee of the party convention in which he participates. I do not believe it can be done by law. It must be done by the citizen, the individual members of that party, and the way to have it done well is to write in the Constitution—maybe not if the legislature will repeal every primary law in the book—but in some way get back to a policy of government where we say to the citizen, "The responsibility for the conduct of the machinery of your party is upon you as a citizen, and your state will have nothing to do with the management of your political machine, organization, association or party."

That is all I am going to say about it. You have done me great honor to debate as you have, and I trust with sincerity, this question, but I hope that in these closing remarks I have at least impressed upon you what seems to me so unmistakably evident, that we can never by law purify primary elections because we cannot by law require the parties participating therein to support the product of their own party.

Mr. SUTHERLAND (Cook). Mr. Chairman, will the gentleman yield to a question? Did I understand you to say that you would purify party primaries by compelling the voters to support the nominee?

Mr. GREEN (Champaign). No, you did not understand me to say that, but you did understand me to say this, that the only way to purify primary elections is to enable the party holding them to make as a condition for the qualification of the voter his pledge to do that thing so that the good men of the party will control the product of the primary, and will participate.

Mr. SUTHERLAND (Cook). Don't you think that rather the reverse is true, and that the better way to get the participants in the party primary to support the nominee would be to purify the party primary?

Mr. GREEN (Champaign). Well, but how are you going to purify it, if you cannot force the people who participate, and how can you force them to participate unless you have an agreement of honor that having partici-

pated they will stand by the ship? Now, it is not that you force them to vote by taking off the brakes, but as a matter of protection don't you see they have to vote? And this is emphasized by that great American's statement when he went down to the caucus in Brooklyn, I believe it was, and they asked him where he went—Mr. Roosevelt—and he said he had been to the caucus, and they said they did not go there, it was a rotten place to be, and he said, "that is the ruling class, and that is the class I want to belong to." Now, when you take away these attempts to purify the law, you force the citizen in the arena, and forcing them in I believe that over 50 per cent of them are good.

Mr. SUTHERLAND (Cook). At that time I take it there were no primary laws on the books of New York?

Mr. GREEN (Champaign). No, I take it not.

Mr. SUTHERLAND (Cook). And the gentlemen who rode about in their automobiles did not participate in those conventions.

Mr. GREEN (Champaign). I don't know how it is in New York, but I know they used to in Illinois.

Mr. SUTHERLAND (Cook). Mr. Chairman, I would simply like to say a word in support of my vote, because, Mr. Chairman, as one of the "extinguished" delegates from Cook county I might be expected to support a proposition like this, which in my judgment would be a twenty-hundred weight load of lead upon the new Constitution, second only in its weighing down quality to the action which we took last week; but, Mr. Chairman, I don't feel that my duty to the people of the State as a whole and the people of my district would be subverted by any such action. I don't feel that it is our duty to come here and repeal laws which are now on the statute book and to take action which may seriously cripple the hands of the General Assembly in providing for the general honesty and welfare of the people. I am constrained to vote against this proposition.

Mr. REVELL (Cook). Mr. Chairman, will the gentleman yield to a question? Is it not a fact that under the old-fashioned plan of conventions this nation made greater and safer progress than it ever has made under the new-fashioned plan of these direct primaries? Is it not a fact that under the old-fashioned plan we had less of the new demands that we now have under direct primaries for all classes of legislation to be enacted directly by the people under such forms as the Initiative and Referendum, and other such forms? I come back, therefore, to the first question, and I would like an answer to that.

Mr. SUTHERLAND (Cook). Mr. Chairman, I am very glad that the gentleman asked that question. I wouldn't have any man think that I am in favor of direct primary law. I was not in sympathy with it when it was enacted, and I believe that it has worked very badly indeed. But, Mr. Chairman, between the direct primary as it operates today and the old unrestricted system of party primaries and caucuses and conventions, there is a very wide difference. I believe thoroughly in nomination by convention. I believe that the delegates to those conventions ought to be duly elected under all the safeguards of law, and if that is not done, I conceive nothing except such turbulence as the delegate from the fifth district suggested this morning. I believe that the General Assembly should repeal the present direct primary law and put something in its place in the way of a delegate primary law. It will be difficult to get something that will meet all of the demands. We cannot properly meet the situation by providing in this constitution that the General Assembly can take no effective action in that field at all, and as this proposition stands I believe that that is exactly the action which we are asked to take.

Mr. REVELL (Cook). Just one more question. Do you not know that in the recent elections held under the primary law which we now have, many candidates for office paid out more money for the nomination than they did for the actual election?

Mr. SUTHERLAND (Cook). I will ask the gentleman a question. Did you understand me to say that I was in favor of the direct primary law?

Mr. REVELL (Cook). You have opposed this proposition, and this proposition, if it means anything, it means to do away with the present primary law, and I have not heard from you any proposition here to do away with the primary law.

Mr. SUTHERLAND (Cook). Why, Mr. Chairman, I don't think we have any business doing away with the primary law in this Constitution. We are here to make a basic law, not a statutory law. A primary law must be changed from time to time. At best it is experimental. We have no business to put something permanent into the basic law of the State in that connection. The General Assembly was free to pass that law. It is free to repeal it. They have repealed it, but it must put something else in its place in justice to the people of the State. We have no business to do it here. If we are doing anything, we are doing it for a good many years to come, and we ought to be mighty careful what we do.

Mr. DUPUY (Cook). Mr. Chairman, I should like to say a few words in explanation of my views on the pending question. I think the present primary law is a failure. I have observed its operation in our country for many years. It has not resulted in getting better men for office. I believe we have not considered this whole subject in a way that we ought to perhaps in this. Our proud boast is that this is a government of laws, and not of men. A law is the result of some ideal that has gained force or strength, some policy that has been approved by the people and has gone along gaining more and more support until it gets the enactment of the legislature and has the force of law.

Now, this present primary law is not designed to accomplish anything along the line of enacting into law its policies of government. It tends directly in the opposite direction. It becomes absolutely a scramble between interested candidates for some official position. Anybody can become a candidate before the primary. All he has to do is to secure the required number of signatures on a petition, and the result is that every primary election presents not the question of supporting some well defined governmental policy that relates to the public welfare, but a mere scramble that is made by a dozen men, it may be, wanting the same political office. Each one of these dozen men is backed by some group of men who have some particular purposes to subserve. There are a dozen different factions representing the different thought or different purposes, and while ten of these factions constituting much the largest majority might be in accord on some policy, questions that might well become a thing to be considered for its enactment into law and to become a part of the public law of the State, it is lost sight of entirely, and it is true that the strongest faction among this half a dozen or dozen different groups has its say. Their men are nominees, and they are the party candidates.

I think the results have not worked out along those lines. I think the primary election law as we have seen it exhibited and as we have it on our statute books is a delusion and a snare. It does not tend toward good government. Take it even in the wicked City of Chicago, that bad neighborhood up in Cook county, in the old times when we had county conventions, although they were in some measure dominated by political influences that we are glad are eliminated and would be glad to keep out of our politics, there was some deliberation, there was some attempt to select good men who would command the support of the public and of their party. Each party was confronted by the necessity of putting up a strong ticket that would secure the votes and the approval of the people and by that means we had a better class of candidates, a better class of men all running for public office, as I believe, 20 or 30 years ago, than we have under the operation of the primary law. Having said this much, I want to say a word further in explanation of the vote I am going to cast on this proposition.

I am hesitant about putting a provision in the Constitution that deprives the legislature of all power to pass laws on the subject of primaries. I believe with the delegate from Will that we move around in a circle more or less, that we come to a right thing by and by as a result of experiences, and I have it in mind that the time will come when the people have had

a little more experience, a little chance of more observation of how this primary law works out, that this legislature will be enabled to cause a change by which we would get a much better thing than we have now. I don't see my way clear to put this provision in the Constitution of the State, and on that ground only I expect to vote against it.

Mr. COOLLEY (Vermilion). Mr. Chairman, I, too, wish to explain my vote upon this question. It seems to me that with all due regard for the intention here to place wise limitations upon the legislature, it is hardly within our duty to so place them that a political party will be forever above the law. The object of law is to maintain order and if, indeed, the legislature may be able from time to time to do something to assist in the maintenance of order in regard to our nominations for political office, why should we at this time interfere and make it impossible for them to do anything in that matter? At first it seemed to me that the proposition was wise, but after listening to the debate I shall vote against it.

CHAIRMAN RINAKER. Any further remarks? If not, before voting, I would like the privilege of explaining my vote. This proposal when first presented was puzzling, but when studied and explained by the gentleman from Champaign grew upon me until the only objection that I could see to it was that it would not be possible to pass any primary legislation. The amendment offered by the gentleman from Fulton removes that objection in my opinion, and it seems to me furnishes the best way to solve the evils of our primary in that it will concentrate the efforts of all parties to the discussion of some plan that will be acceptable to them and that will be workable, for our present primary is far from workable. Whenever that time comes, the legislature is free to pass a law modifying those principles which can then be accepted and adopted by the parties in the same way that other legislation that is optional as to its territory and its domain and its application is passed, and it seems to me that this is not putting the parties above the law, but it is furnishing the best possible means of experimenting until you get a good primary system; then having it enacted into law and be voluntarily accepted by the political parties. It seems to me there is no inconsistency whatever in it, and I shall vote for it. The question is upon the adoption of the proposal as amended.

(Proposal lost.)

Mr. GALE (Knox). Mr. Chairman, I now desire to offer along this line the following proposal:

"No law shall require primary elections except for county officials or for delegates to nominating conventions."

In the course of this interesting debate I have not heard one word raised in favor of the primary election laws. It seems to me that if that is the attitude of this convention, and I think it ought to be the attitude, that then it is proper we place in the Constitution some limitation upon these vicious laws, and with that in view, I offer this for the consideration of the committee.

Mr. HAMILL (Cook). Mr. Chairman, point of order. The proposal comes as a new proposal, and a new proposal cannot be offered in the Committee of the Whole, nor even now before the Convention.

CHAIRMAN RINAKER. The Chair is of the opinion that coming in the manner in which it now does, the point is well taken. I think it could have been offered as a substitute for the other proposal, and I want to say at this time that it was my intention before putting the question to call for further amendments. I forgot to do so. The point of order is sustained. That, I believe, ends the discussion of the proposal before the committee.

Mr. GREEN (Champaign). Mr. Chairman, I move the committee rise and report.

(Motion carried.)

Mr. RINAKER (Macoupin). Mr. President, the Committee of the Whole having under discussion proposal 129 referred to it respectfully, reports that they have considered the proposal and amendments offered and report that they recommend that the same be not adopted.

THE PRESIDENT. The chairman of the Committee of the Whole reports that the committee has had under consideration proposal number 129, and that the Committee of the Whole reports to the Convention recommending that the proposal be not adopted, and the question is upon the adoption of the report of the committee. Are you ready for the question?

Mr. GALE (Knox). Mr. President, I attempted to offer a certain substitute for the proposal before the Committee of the Whole, a proposal which was ruled out of order, upon this same line. I desire to offer that to the Convention and ask that it be referred immediately to the Committee of the Whole and I rise for information whether I shall offer it now or after the adoption of the report of the Committee of the Whole. I offered it, Mr. Chairman, as a substitute for the report of the Committee of the Whole.

THE PRESIDENT. And Mr. Gale Offers a substitute for the report of the Committee of the Whole. The substitute will be read.

Resolved, That the following shall become a part of the Constitution of Illinois:

No law shall require primary elections except for county officials or for delegates to nominating conventions.

THE PRESIDENT. And the question is upon the adoption of the substitute offered by the delegate from Knox.

Mr. HULL (Cook). Mr. Chairman, I doubt whether that is in order as a method of getting a proposal before the Convention. I don't believe it is, the introduction of a proposal in place of a report of a committee rejecting a proposal, and I do not believe that as an amendment to a report or a substitute to a report it is in order. I cannot put my finger on the page and number of the rule, but on general parliamentary principles I should believe it was out of order at this time, and I raise the point of order.

THE PRESIDENT. The Chair is disposed to hold that the point of order is well taken and that the substitute is out of order at this time.

Mr. GALE (Knox). Mr. President, on that point I respectfully desire to appeal from the decision of the Chair. Unless a delegate here can offer a substitute for the report of the Committee of the Whole, he has no possible way of getting any division of the delegates definitely shown upon any proposition that he may desire, and though he may be beaten in the Committee of the Whole, he has in the Committee of the Whole no possible way of putting the delegates on record as to what they think of the proposal before it. Unless, Mr. President, the suggestion of making a substitute report for the report of the Committee of the Whole is permitted, we are simply shut off from what seems to me our rights as members of the Convention. I beg the chair to reverse his ruling on that, or to allow an appeal from his ruling.

THE PRESIDENT. As the Chair sees it now, the Chair is of the view that the question before the house is on the adoption or the rejection of the report of the Committee of the Whole. If adopted, the action of the Committee of the Whole becomes the action of the Convention, and that the proper place for consideration of the amendment, which would be germane, would be in the Committee of the Whole, and the Chair, therefore, will adhere to the ruling and will permit the appeal from its decision. Is there a second to the appeal? The rules require a second to the appeal.

Mr. BRANDON (Kane). I will be pleased to second it.

THE PRESIDENT. And the question is, shall the decision of the Chair stand as the decision of the Convention?

(Chair sustained.)

THE PRESIDENT. The question is upon the adoption of the report of the committee.

(Report adopted.)

THE PRESIDENT. There are other matters pending on the general orders, the next in order being the report of the Committee on Revenue, Taxation and Finance. The Convention will again resolve itself into the Committee of the Whole for the purpose of considering that report. Delegate Whitman is designated to act as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into a Committee of the Whole with Delegate Whitman in the chair.)

CHAIRMAN WHITMAN. May I make the announcement of the present status of this report? The Committee of the Whole will be in order. The Committee of the Whole has already had under consideration the report of the Committee on Revenue. It has adopted all sections of the report of the Committee on Revenue with the exception of section 2. On the recommendation of the Committee of the Whole section 2 was re-referred by the Convention to the Committee on Revenue. The Committee on Revenue has made its report to the Convention, and it has been published and put on the calendar, and we are now as a Committee of the Whole in session for the purpose of taking into consideration section 2 as re-reported by the committee.

Mr. GALE (Knox). Your Committee on Revenue, Finance and Taxation was of the opinion that section as originally presented to the committee clearly stated what the idea of the committee was. That idea was that the income tax authorized by section one which had been adopted by the Committee of the Whole should be levied and collected by some authority of the State, that it was not proper that an income tax applying to the entire State should be levied through the machinery of the local assessors, and collected by the local taxing authorities, upon the theory that it was the sort of tax which could not be successfully administered in that way; and that was the reason for the first sentence "the income tax herein provided shall be levied and collected by some State authority." In the next place the committee were of the opinion that an income tax collected for instance in Cook county, should be taken and distributed arbitrarily over the entire State; that all that the State as a whole should get out of that income tax should be the same proportion of that income tax as was the proportion which it secured of the real estate tax in that county, and for that reason the second sentence was put in, or the first portion of the second sentence. Then it was the opinion of the committee that that part of the income tax within a county, remaining to the county, after the State's share had been taken out, should be apportioned and distributed to the various taxing authorities within the county in the same proportion as the real estate taxes collected in that county were distributed and apportioned to the various taxing authorities. That is what we attempted to reach by the section two formerly presented to this committee. There seemed to be in this committee a great deal of thought as to what section two really meant. We have therefore in this section, which we now recommend for adoption, endeavored to clarify that situation, and endeavored to make clear the meaning which I have just stated. The committee were unanimous in thinking that this section as now reported clearly expresses what they had in mind, and I now ask, Mr. Chairman, that the secretary read the section as proposed.

(Section read.)

Now, Mr. Chairman, it seems to me that there can be very little question as to the proper policy here, to be pursued, and I think nobody will maintain that income taxes should be levied or extended by other than some state authority, when the State can furnish the proper machinery; in the second place it seems to me clearly fair that when income taxes are collected in any county, the State should get the same proportion of those taxes that it received from the taxes levied in that county, and that leaves a balance to be apportioned and divided between the various taxing bodies in the county. It seems to me there is nothing that can be fairer than to say that they shall distribute and divide it the way real estate taxes are divided. Some measure we must have. We don't care to say that a definite percentage shall be divided. The county itself can fix in a way the proportion of the income tax which will go to the different bodies in the county, the same way as the real estate tax is fixed. It seemed to the committee fair that that same procedure should be followed with reference to the income tax. I can see no occasion for extended debate on this proposition. I therefore move the adoption of this report.

Mr. HULL (Cook). I just want to get this thing clearly in mind. You have substituted the word extended here for the word collected. I am not

sure that I understand the process covered by this provision, you extend the tax at what time?

Mr. GALE (Knox). The tax extension is made by the county clerk's department in the counties of this State, some time usually between the first of November and the first of February and you will have this income tax collected at what time? That I think would be left to the legislature, under the wording of the provision. I assume for matter of convenience, but I have no right, of course to say it, that the State will require the payment of the income tax at the same time it requires the payment of other taxes. Of course, I don't know that.

Mr. HULL (Cook). I am not clear on this, and I may be simply making trouble for myself in reading it. You say the apportionment shall be made in the same proportion as real estate taxes, extended in the county for the same year, are divided between the State and county. I was wondering whether the delay in the collection will make it difficult for you to make the apportionment?

Mr. GALE (Knox). You don't apportion the taxes extended between the State and county; you really apportion the taxes collected afterwards. That is true so far as the real estate taxes are concerned. The real estate taxes are extended and it is the taxes extended that are apportioned in the tax collected. When the real estate tax is collected or extended rather, suppose the State rate is forty cents, that forty cents is assessed against each piece of real property in the State then.

Mr. DUNLAP (Champaign). I presume your theory of distribution of this income tax is that the point where this tax was earned or where the business had produced the income is where the tax ought to go back to, is that it?

Mr. GALE (Knox). Except for the proportion which belongs to the State.

Mr. DUNLAP (Champaign). In that case we have to take into consideration, won't we, in levying taxes, that we do not levy any more taxes than are desirable, if we have to have the income taxes re-distributed. Now in the case of a business for example, a man lives in a certain city, and the business that produces his income might not be there, might be in another county, perhaps somewhat removed from it, but under your proposition here it would revert to the county where the man lived; where his residence was, and there the various taxing bodies would get the benefit of the tax that was derived from the income; now isn't that true that would work an injustice upon a locality where the business was located?

Mr. GALE (Knox). Senator, theoretically I think it would; practically I don't believe that it would work out that way, and we are confronted here with two practical questions, there may be such an injustice as you suggest, but if you take it away from the district wherein it is paid, there is another injustice done to that district. That may rightfully claim, just as rightfully as the other district, it seems to me, that it should be expended in that district where it is collected, and I can only say that we have to accept one or the other of the horns of the dilemma, and the committee was convinced that this was the better way to take care of that proposition.

Mr. DUNLAP (Champaign). Now in the very suburbs of Chicago, for example, there live men whose business is in the City of Chicago; one who has a manufacturing business, for example, and it is perhaps in some other county of the State or some other locality.

Mr. GALE (Knox). That is an illustration that was put up to the committee.

Mr. DUNLAP (Champaign). And when this tax reverts back to the locality where this person lives why you are going to perhaps take funds that are in no sense needed. For instance take the schools of Chicago, that have to be supported or should be supported in my opinion very largely by the general taxes, at least the general taxes in the County of Cook—I think that is a State proposition. The distribution of the school fund for public school purposes is a matter that concerns the entire State, and in that case I think you will agree to the disadvantage of the several taxing in-

terests of the State. Further than that I want to ask you some more questions in regard to the administering of this; in administering this proposition we have, as I recall it, some 69 different taxing bodies in this State, at least we passed 69 bills, if I remember rightly, at the last session of the General Assembly limiting the tax rate at which these taxing bodies could levy taxes, that means that there are 69 different taxing bodies in the State or very close to that at least, and if that were true these 69 different taxing bodies of the State have got to take into consideration the money that they are likely to derive from this income tax. Now we are undertaking to say here by an arbitrary decision, it seems to me, to establish just exactly how that shall be done with very little consideration of all the elements that enter into that distribution. Before I go on with that I want to make this statement that the income tax itself is not an additional tax, it should not be an additional tax; it should be a division of the tax, between the income and property there ought to be so much money raised, and it ought to be raised under our provision here partly from income and partly from property. Now if that is to be done every taxing body in this State should, if they fulfill their duty, know what proportion of that fund they are going to get from income before they levy the tax and not only that, but the legislature should pass a tax rate law for all of these different bodies, limiting the amount that they could produce from property. Now you are involving a good many questions here and I would suggest that it would be much easier if we were to pass a provision here that would meet this proposition, in a much more common sense way, and leave the matter open so that it could be adjusted from time to time according to the needs of the different taxing bodies of the State, in such a manner as would produce better results than our attempt here in Constitutional Convention to fix this for all time. Now, if we were to say the income tax herein provided shall be levied and extended by some State authority, the income taxes shall be levied and distributed according to law, why we would leave that in the hands of the legislature or General Assembly to determine after mature consideration what should be done along that line. Now don't think that the parties involved in this, that is the different taxing sections of the State, and the different taxing bodies are to be deprived of this money. Get that thought out of your head, because if you apply this money in any other way than to distribute it according to this proposition here, you are simply relieving the necessity of levying taxes on property for the purpose under consideration, and if this fund were to go into the public school fund, if there was sufficient of it to meet the sixteen or twenty million that they are asking for, as I understand they are to ask, for distribution to the common school fund, in the State, next year, if that were distributed and taken from the income tax fund, you would be creating no hardship but simply relieving the situation in every school district of the State, to that extent, that you would have to, if it were applied in that way, have the legislature limit the taxes in the school districts to a point which would make the allowance for the amount derived by the State from the income tax about what it was in the other fund. The General Assembly may apply it, but wouldn't it be simpler if we take that fund in a general way, if we are going on some proposition which requires the whole State to contribute, to use it in that way, and not try to distribute it to the 69 different taxing bodies in the State, which has sixty-nine different taxing rates to meet the emergency, (I am presenting that for your consideration) than it would be to fix in the Constitution some specific method for taking care of this and reapportioning it back to every taxing body in the State?

Mr. GALE (Knox). I simply want to say that I don't want any delegate here, and the delegate from Champaign who has just spoken, particularly, to get the idea that the Committee on Revenue and Taxation did not consider these things, because we did, and the question with us was as to the best way to meet these situations, what we deemed to be an administrative difficulty. It is easy enough to get up here and point out that there is a difficulty in the administration of the income tax. I think every dele-

gate here will agree that that is true, but some plan we must adopt, and that was the question for the committee, and we adopted this plan because we thought on the whole it was the fairest plan. It has been suggested to me by the delegate from McLean, who is a delegate in that committee, that section one provides for a possibility of income tax on income from tangible property, in lieu of any property tax thereon. So far as any intangible property tax was secured it went right back to the district, except the proportion which went to the county and the State, and here we are attempting to take care of the income tax, and a part of the income tax may very likely be the income tax from intangibles, and there can be no question but that that ought to go back to the district from which it is raised. The same difficulty that the gentleman from Champaign suggested with regard to the general income tax is true with regard to the income tax from intangibles. It may be true that a gentleman lives in the town of North Chicago or in the town of Evanston, and draws his income from an industry located in the town of South Chicago. And it may also be very likely true that he draws his income from intangibles, the situs of whose representative property is in the town of South Chicago, and the same objection applies to both, but I do not see very well how you are going to avoid the objection. You have got to take one course or the other, and it did seem to the committee that the fairest way to do was to permit the division of the tax so that the State would get from each county the same proportion of that total income tax which it gets of the real estate tax, and say that the remainder left for the county should be divided among the taxing bodies of the county.

Mr. HULL (Cook). I am interested in the suggestion that came from the gentleman from Champaign, and I can understand the reasoning of the gentleman from Knox, especially as it applies to the income tax, which is assessed on incomes received from intangibles and assessed in lieu of the tax on intangibles. As I remember it however, the revenue proposal which we have adopted permitted also a super-tax which was a progressive income tax, and permitted such tax to be levied against the incomes, is that correct?

Mr. GALE (Knox). That is correct.

Mr. HULL (Cook). Did the committee consider the question of making a distribution of the progressive tax on a method different from the one by which you divide the uniform income tax?

Mr. GALE (Knox). My memory of the discussion in the committee may be faulty, but it seems to me that that point was brought out by our discussions, and the committee felt this, first that the legislature was extremely likely to authorize the intangible property income tax in lieu of the property tax on intangibles, and that it was quite likely that no income tax, at least for a great many years, would be levied other than that, and I might say that I think I know some members of the committee—I am not sure whether it was expressed in the committee or not—I know some members of the committee were in hopes that the legislature would not find it necessary to levy the additional income tax, at least while the Federal authorities are relying so largely on the income tax for their revenue.

Mr. HULL (Cook). I asked that question simply because I have been very much impressed from session to session of the legislature with the plea that has been made in behalf of the small country school, where the taxable property in the school district is relatively small, at least measured by valuation, but where the school population is large. There are situations of that kind which have been repeatedly brought to our attention, and then it has been brought to our attention in a very small school district there will be a small population and a large taxing of property. It has presented a difficulty with respect to the raising of the necessary revenue for common school purposes, that has impressed me very much. For that reason I asked this question. I should be inclined to go along with the suggestion made by Senator Dunlap, that is he separated out the income taxes which are uniform from the income taxes which are progressive, and there were two schemes provided for in section one. I am very firmly impressed with the appeal made in behalf of the common school of the State and their needs for revenue. I don't know whether that can be met by

some legislative action that will completely alter your present method of school distribution or not, but they are very real problems of the State that have got to be taken care of in some way at some time.

Mr. GALE (Knox). I just want to say a word; it does seem to me in the discussion of the revenue article here the Committee on Revenue has at least attempted to present all of the questions that have arisen before them, and fairly before this committee. The job of determining how these things shall be done is not an easy job, and the Committee on Revenue could not devise any scheme that seemed to them as fair as the one that this purposes. Now, it was suggested, and I am very sorry that my colleague from the 43rd district, Mr. Taff, is ill this afternoon, because Mr. Taff desired to offer here in lieu of this a section, which reads as follows: "the income tax herein authorized shall be levied and collected and distributed by some State authority." He also desired if that did not seem to satisfy the committee—it may be said that that was suggested to the Committee on Revenue, and it did not satisfy the Committee on Revenue because we felt that there would be a constant temptation to take away the income tax which belonged to certain counties and distribute it over the State and we felt that that would be unwise, and unfair. Mr. Taff wanted also to offer a proposition that the income tax should be levied and collected by some State authority, and then shall be distributed to the school system of the State of Illinois in the proportion which the inhabitants of each school district under the age of 21 bore to the whole number of inhabitants under 21 within the State of Illinois; which is the same plan practically that the present State Aid fund is distributed to the schools on, which proposition by Mr. Taff would sharply raise the issue before the committee, as to which way they wanted this decided, but it did seem that the fair thing to do is to confine the income tax within the county in which it is raised, except for the State proportion of the taxes. In other words, that the income tax should be distributed between the State and taxing authorities, precisely as the taxes on real estate is collected from individuals and distributed and apportioned. There are objections; the suggestion of the delegate from Champaign is interesting, it was made before the committee but, Mr. Chairman, if you are going to encourage the legislature to levy this additional income tax it seems to me that is one of the very best ways to do it. It seems to me that you are opening the door here to extravagance, if you so do, for if you take that income tax, at a very moderate rate of taxation—now I gave you the figures here some weeks ago and I do not want to repeat them, to any very great extent, but the revenues reported to the Federal government for the year 1917 from persons if you remember were \$1,113,000,000. That was the income reported to the Federal Government for the year 1917. The income reported from corporations was a very little larger, less than one billion two hundred millions. The income reported for the year 1918 to the Federal Government were \$1,256,000,000 from individuals. The corporation reports are not yet available. For the use of this Convention I have had a request in at Washington to furnish those figures as promptly as we could get them, and they sent me their last authorized figures of individuals in this State but not of corporations, because they did not have them. But you will notice for 1918 the figures are about 100 million for the individuals. The corporation figures, I presume, are about the same for the year 1918; therefore you have in a year like 1918 about two and a half billion of income from which revenue can be collected, and from that you would have to deduct the very large amount of exemptions proposed, which would leave you not more than two billion on which revenues could be collected, and put that on a two per cent rate, which is not quite what the Wisconsin rate works out, in their graduation. That at two per cent would bring you forty million dollars. It seems to me if you are going to provide the distribution of that to the State authorities and the school fund of the State instead of decreasing the tax rate on real estate which we did hope to do if the income tax was used, instead of decreasing it you are going to keep it right up to the top notch limit. In the second place you are going to encourage

the legislature to put into effect this additional income tax, before that time may come in the history of the State, when that is absolutely essential.

Mr. DUNLAP (Champaign). In order that we may have a vote on this proposition I desire to offer an amendment, and move its adoption:

"The income tax herein authorized shall be levied and collected by some State authority, and shall be distributed in such manner as shall be provided by law."

Just a word on that amendment. It is not intended by this amendment, and it is not covered by this amendment that this fund shall be distributed to the schools of the State or to the school fund, but that was one of the suggestions made, but to leave the matter to the General Assembly in what way it was to be distributed. Whatever way it would be distributed it would relieve the tax on property just that much, and the matter of the administration is so difficult under the proposition proposed, and so intricate, it seems to me to be better to leave it a matter of legislation than to make a constitutional provision that settles the matter for all times. I cannot see any objection to the proposition to let the legislature determine it. Certainly we have not gone into it sufficiently here to determine it exactly ourselves, and therefore, I offer the amendment.

Mr. HAMILL (Cook). I am beginning to get a little enlightenment for the reason for giving the down State part of the State the control of the State legislature, raise your revenue in Cook and spend it down State.

Mr. HULL (Cook). I do not think that that is entirely justified by the proposal. Supposing the money comes into the State treasury to be spent by the State, it will be spent for State uses and not for local uses.

Mr. DAVIS (Cook). Why do you say that?

Mr. HULL (Cook). Because that is the only way that the State has any right to appropriate money, for State uses.

Mr. DAVIS (Cook). May I help my colleague from Chicago come to an understanding of the effect of this proposal; the gentleman from Champaign certainly does not understand what the committee proposes, if we are to take him at his word in his argument. There is not a word in this proposal regarding the distribution of money raised from income taxes, except that the same method used in the distribution of taxes levied on real estate shall be used in the distribution of funds raised through the operation of the income tax law. In the name of Justice, I ask why should there be a different system for the distribution of money raised from income taxes than the one you are going to use for the distribution of money raised from the taxation of real estate. We are not providing any system, but we are saying to the legislature that in putting into effect an income tax law money raised from the operation of such a law shall be used in no way except as money raised from any other source. It is not a question of the use of the State money; it is a question of the manner of distributing the money which is raised by the income tax.

Mr. HULL (Cook). I don't think you can make any distribution except by general law. If the money is spent by the State for State uses it lessens the general taxes.

Mr. DAVIS (Cook). Now then will my colleague answer why is it unfair to provide that the same system and the same law which the General Assembly uses for the distribution of money raised by taxation on real estate shall be used in the distribution of money raised from income tax.

Mr. HULL (Cook). I have no objection to that, but that is not the question here.

Mr. DAVIS (Cook). That is the question raised by the amendment offered by the delegate from Champaign.

Mr. HULL (Cook). I don't think it is.

Mr. DAVIS (Cook). I cannot make it plainer.

Mr. DUNLAP (Champaign). Just a word, called for by the remark by the delegate from Cook, Mr. Hamill, I think in a very unkind way. I realize perhaps the strain under which he is working. But I really don't think

anything I have done here, would lead any one to think that I had any ulterior motive in making this amendment, other than to provide some system of State distribution that would be workable, and which would not embarrass the State in the administration of it. So far as the application of the remark is concerned it is beyond the point. If this Constitution is adopted by the people the first representation under this Constitution will be practically by the same representation as it is now, in the General Assembly. There will be no difference in a material way from what it is now, and we have been distributing the school funds there, over this State. In the last few years we have distributed 12 millions of dollars, and if the present method of taxation was continued we probably would distribute 16 or 18 million or possibly twenty million of money that was raised in the State of Illinois, for State purposes and devote it to the public schools, and distribute it to the public schools of the State, whether that comes from income tax or whether it comes from a property tax is entirely aside from the standpoint of to whom does it belong. It will probably come in the same proportions from the same part of the State as it comes now. So there is no injustice in the notion, and the State of Illinois will have practically a General Assembly of the same proportion down State and in Chicago, and I presume that is what he had reference to when he made the remark, as it is at the present time. If these remarks were to apply to fifty years hence possibly there might be something in the remarks that he makes, but under the present condition if this Constitution is adopted laws will be passed by a General Assembly that is practically the same as it is today.

Mr. SUTHERLAND (Cook). It seems to me it is unnecessary to raise a hideous question here. The whole question is one of distribution, fairly and properly of the revenues from the proposed income tax. Now a very fair method has been worked out by the committee, and it is an equitable method and a workable method, all these things have been considered, and we all know that there are drives from time to time by various elements for special purposes; the school fund has been talked about, and if it is desired to increase the State distribution fund to help the school all right, any time that it is increased the State rate will be increased by so much, so the proportion of the income tax that is levied and collected goes into the State treasury, and that will be increased by the proportion that the State rate is increased. So that matter is taken care of, but, Mr. Chairman, there is always a drive in the direction of segregating revenue, special taxes for special purposes, and the whole history of State and local revenue in every State that has tried it has been extravagant and expensive. California's history was this, when they attempted to raise all their taxes from certain exclusive lines, and thereby as they expressed it relieve the local taxes, and that is what might happen under this amendment, if the legislature took it in its head to do it, they might say that all the income taxes would be devoted to State purposes, and there would be no State tax levied on real estate—here is what happened in California, when they attempted to make certain lines support the State, thereby holding out the hope of relief to real estate locally, these few lines being popular to tax they took all of the money and spent it extravagantly, for State government purposes; and the local officers said, why we are relieved from State taxes, and we will keep the old rate right where it was and nobody is any the worse off,—so that you have extravagance State and local under that system. Now they are trying to get away from it. Don't let us put it in the hands of the General Assembly to put any such system in effect in Illinois.

(Lost.)

CHAIRMAN WHITMAN. The question is on the adoption of the section (Adopted.)

CHAIRMAN WHITMAN. The question is on the adoption of the report of the Committee as a Whole.

(Adopted.)

Mr. GALE (Knox). I move that we rise and report the concurrence in the report of the committee.

President Woodward in the chair.

Mr. WHITMAN (Boone). The Committee of the Whole having under consideration the revenue article adopts the same, and herewith tender it to the Convention, with the propositions as amended, and move its adoption. (Adopted.)

Mr. RINAKER (Macoupin). I move we adjourn now until nine o'clock tomorrow morning.

Adjourned to December 8th, 1920, 9 a. m.

WEDNESDAY, DECEMBER 8, 1920.**9:00 o'Clock A. M.**

Convention convened pursuant to adjournment.

Prayer by the Chaplain.

The President in the Chair.

THE PRESIDENT. The Journal of Monday, December 6th, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the journal of Monday, December 6, 1920, will stand approved. The Chair announces the appointment of Mr. Clarke, the delegate from Lake county, as chairman of the Committee on Phraseology and Style in the place of Mr. Hamill resigned. The Chair further announces the appointment of Mr. Brewster to fill the vacancy on the Committee on Phraseology and Style. Reports of standing committees?

Mr. DEYOUNG (Cook). Mr. President, the Committee on Judicial Department reports that the sections which were re-referred to it have been considered by it and it is now ready to report. The sections, exclusive of sections 6 and 7, are the following: Section 19 on page 6 of proposal 383 has had the further consideration of the committee for the reason that its attention was called to the fact that there are certain cities in the State which lie in more than one county, and under the law and under the present Constitution it was impossible to create city courts for such cities. The City of Centralia is a city thus situated. Under the general law we were informed that a city court had been organized in that city and because it lies partly in the County of Marion and also partly in the County of Clinton, and I understand possibly extends over into the County of Washington, the validity of the organization of the court was tested and adversely determined by the Supreme Court. Hence, it was thought that section 19, which provided for sessions of circuit courts in cities other than the county seat having a population of 5,000 ought to be modified as follows, and the committee recommends that in line 4 of section 19, after the word "city", the words "wholly or partly" be inserted, and again in line 6, on page 7, section 19, the words "or part thereof" be inserted, so as to remove any possible doubt that a city above a population of 5,000, where it lies in two counties, may have the sessions of the circuit court where that city is not the county seat, to remove any possible doubt or ambiguity.

The committee's attention was also referred to section 33, which was not considered in the Committee of the Whole for the reason that the requirement, as section 33 was originally drawn, that the City of Chicago and such other cities and villages in the County of Cook in which the district court sessions might be held should provide suitable quarters. It was suggested by Mr. Hamill that the building occupied by the criminal court now and for many years past was the property of Cook county, and hence a modification of that section was necessary, and the Committee on Judicial Department makes this suggestion, that in line 5 of section 33, just before the word "sessions" the next to the last word on that line, there be inserted, "criminal branches of said court shall be provided by the County of Cook. All other branches"—after the word "sessions of the court" shall be stricken out, and inserted in lieu thereof, "shall be held in quarters furnished." Then in line 7 just before the word "sessions", the words "branches or" shall be included, so that the sentence will read: "Suitable quarters for the holding of the criminal branches of said court shall be provided by the County of Cook. All other branches or sessions of said court shall be held in quarters furnished, respectively, by the City of Chicago and such other cities, villages

and incorporated towns in which such branches or sessions shall be held, without expense to the county or the State."

The committee's attention was further directed to section 47, which was not passed upon by the Committee of the Whole, because by the article on judicial department as proposed, new judicial officers, namely, judges of the Appellate Courts, were created, and the salaries of county judges under the law as it now stands, fixed by the boards of supervisors of the respective counties and by the Board of Commissioners of Cook county, did not come within the provision that they were fixed by law, and the prohibition against the increase or decrease of those salaries would probably operate or might create considerable difficulty until those salaries were fixed. Hence this amendment is suggested:

In line 5 after the word "officers", section 47, page 15 of proposal 383, the words "after it has been fixed by law," so that the sentence will read: "The salary of no judicial officer after it has been fixed by law shall be increased or decreased." So that when the salaries of the judges of the Appellate Courts and county courts are fixed by law, after that the prohibition applies. There is a further modification at the top of page 16, line 7, the words "circuit or" are followed by the words, "county court or the," so that it will read, "The salary of no judicial officer after it has been fixed by law shall be increased or decreased during the term for which he is elected or appointed, and no justice of the Supreme Court or judge of the Appellate, circuit or county court, or the District Court of Cook county, shall receive any other compensation." The rest is the same.

The committee also desires to report an additional section to be known as section 38, which will follow section 37 of proposal 383, which provides when the electors of Cook county shall so determine to submit the appointment of the judges of the circuit and district courts of Cook county, those two courts and none other, only upon an election to be held as provided by this proposal. This will involve the renumbering of the sections of proposal 383 which follow. Section 38 which the committee so suggests shall be made a part of the report.

The committee further adopted a section for declaratory judgments or decrees, and the committee recommends that that section be made a part of the report, or of the article. The renumbering will advance all of the sections one number, so that section 44 of proposal 383 will be section 45, and the proposed section on declaratory judgments should follow original section 44 to be changed to section 45 and made section 46, and the sections of the original report beginning with number 45 will be changed to 47 and those succeeding will, of course, be respectively increased by two.

Mr. President, that is the report of the Committee on Judicial Department, outside of sections 6 and 7 which have not yet been determined, and which the committee recommends be taken up in the Committee of the Whole for determination.

THE PRESIDENT. Under the rules, the report of the Committee on Judicial Department will lie upon the table and will be printed.

Mr. DEYOUNG (Cook). I now move, Mr. President, that the report be placed on the general orders.

THE PRESIDENT. And the delegate from Cook, Mr. DeYoung, moves that the report of the Committee on Judicial Department be placed upon the general orders.

(Motion carried.)

THE PRESIDENT. Under general orders of the day the Convention will resolve itself into the Committee of the Whole for the purpose of considering the report of the Committee on Judicial department. Mr. Cutting is designated to act as chairman of the Committee of the Whole.

Mr. GREEN (Champaign). Mr. President, in reference to this judiciary article, the minority report referred to sections 5, 6 and 7. The members signing the minority report wish to have section 6 as it was in the minority report reported back with the majority report of the committee—not section 7. There probably are some amendments to other sections which have not

been re-submitted, but in order that there may be a complete article, there ought to be something reported back to supply that.

THE PRESIDENT. The minority makes that report, and the motion in the record will show the minority report, and the submission of the minority report to the Committee of the Whole. Mr. Cutting will take the chair as chairman of the Committee of the Whole.

(Thereupon the Convention resolved itself into a Committee of the Whole with Delegate Cutting presiding.)

CHAIRMAN CUTTING. The Committee of the Whole will be in order. Is there anything before the committee?

Mr. DEYOUNG (Cook). The Committee on Judicial Department reports the following amendments to section 19 of the original proposal: In line 4 at the bottom of page 6, it recommends that the words "wholly or partly" be interpolated after the word "city." I move that amendment.

CHAIRMAN CUTTING. Is there anything to be said upon this proposition?

Mr. DEYOUNG (Cook). Mr. Chairman, section 19 was adopted by the Committee of the Whole, and this suggestion was made afterward. Hence, I move that the vote by which section 19 was adopted be reconsidered.

(Motion carried.)

Mr. DEYOUNG (Cook). Now, Mr. Chairman, I move that the words "wholly or partly" be interpolated after the word "city" in line 4, section 19, at the bottom of page 6. The reasons for that amendment are that there are cities like Centralia that sought to have a city court, but because of their location in two counties—I understand there are probably half a dozen cities situated like it—they have been denied city courts, because of the strict construction of the Constitutional provision, and hence out of an excess of caution this amendment was suggested. I move its adoption.

(Amendment adopted.)

Mr. DEYOUNG (Cook). Mr. Chairman, in order to be consistent, it requires in line 6, near the top of page 7, the interpolation of the words, "or part thereof" after the word "city."

(Amendment adopted.)

Mr. DEYOUNG (Cook). I move the adoption of section 19 as amended, Mr. Chairman.

(Section adopted.)

Mr. DEYOUNG (Cook). Mr. Chairman, section 33 was passed by the Committee of the Whole some days ago, and it is now before the Committee of the Whole for consideration. I move that section 33 be amended as follows, by inserting after the words "suitable quarters for the holding of the," near the end of line 5, section 33, page 11, the following words, "criminal branches of said court shall be provided by the County of Cook. All other branches in"—that in line 6 the words, "shall be provided" be stricken, and in lieu thereof the words "shall be held in quarters furnished" be inserted, and in line 7 before the word "sessions" the words "branches or" be inserted, so that the sentence will read: "Suitable quarters for the holding of the criminal branches of said court shall be provided by the County of Cook. All other branches or sessions of said court shall be held in quarters furnished, respectively, by the City of Chicago and such other cities, villages and incorporated towns in which such branches or sessions shall be held, without expense to the county or the State."

You understand, gentlemen, the reason for that, which was suggested by Mr. Hamill. The County of Cook owns the criminal court building. It is the building in which criminal cases have been tried, and to impose upon the City of Chicago the duty of providing those quarters would probably bring about some litigation as well as needless expense. It is not the city function to provide buildings of that kind, and we believe that we have imposed enough upon the City of Chicago when we require it to furnish quarters for all of the civil branches of the court, as well as these other cities and villages in which sessions may be held. I thought with the other members of the committee that the suggestion was an admirable one, and we should adopt it. I move, Mr. Chairman, the adoption of these amendments.

(Amendments adopted.)

Mr. DEYOUNG (Cook). I move now, Mr. Chairman, that section 33 as so amended be adopted.

(Section adopted.)

Mr. DEYOUNG (Cook). Mr. Chairman, another section of the original report, section 47, so numbered in the printed report was passed by the Committee of the Whole when we had the article under consideration before. You will observe that under this proposed article we create distinctly judges of the Appellate Courts. They are no more judges of the circuit court as in the past, but it is a distinct office, and we have also provided that the salaries of the judges of the county courts should be paid out of the State treasury. Hence, the provision was suggested that all salaries should be fixed by law, and that there shall be no increase or decrease in the salaries during the term of the officer, that we probably might have at least judges of the Appellate Courts in office before the General Assembly could fix their salaries, and in the case of judges of the county courts who are holding over until the expiration of the terms for which they are elected, their salaries fixed by the county boards and boards of supervisors also would not come within the provision that their salaries were fixed by law, so that the prohibition against the increase or decrease would leave at least those classes of judicial officers in a rather awkward position, so that we believe it has been changed by the interpolation of these words and that difficulty remedied: In line 5 insert after the word "officer", "after it has been fixed by law." The sentence will then read:

"The salary of no judicial officer after it has been fixed by law shall be increased or decreased during his term," and so on. Now, Mr. Chairman, I move that the words "after it has been fixed by law" be inserted after the word "officers" at the beginning of line 5 of section 47. And may I suggest this also in the interest of clarity, at the top of page 16 in line 7, the words "county court or the" be inserted so as to make it read more clear, we believe. I move the adoption of those amendments to section 47.

(Amendments adopted.)

Mr. DEYOUNG (Cook). Mr. Chairman, I now move the adoption of section 47 as so amended.

(Section adopted.)

Mr. DEYOUNG (Cook). Mr. Chairman, turning now to the circuit and district courts of Cook county, the committee has reported an additional section which has reference to the method of selecting judges of the circuit and district courts of Cook county. The proposal adopted provides for their election. This is a section which will in the future, if the electors of Cook county so see fit, provide for their appointment, and after their appointment subject these judges to an election every six years; that is, they may be retired at the end of every six years. This is merely optional if adopted at an election by the voters of Cook county. There is not a dissenting voice on the committee, and we believe that this provision ought to be put into the Constitution itself. I shall ask the clerk to read it.

AMENDMENT No. 20.

Amend Proposal No. 383 by adding a new section thereto to be known as section 38 after a renumbering of the sections:

Sec. 38. Whenever electors of Cook county equal in number to one-tenth of the vote cast for all candidates for President of the County Board of Commissioners at the last preceding election thereof shall petition the Chief Justice of the Circuit Court of said county to submit to a vote of the electors thereof the proposition as to whether said county shall adopt the system for the appointment of the judges of the circuit and district courts of Cook county hereinafter provided, it shall be the duty of such Chief Justice to submit such proposition to a special county election to be called by such judge within ninety days, by entering of record in said court an order to that effect. But if at any such special election such proposition shall not be adopted, said proposition shall not be again submitted for two years. Such election shall be held under the election laws in force in Cook county.

If such proposition receives the affirmative vote of a majority of those voting thereon "such system of appointment shall be adopted, and the Chief Justice shall proclaim the adoption thereof." The form of such petition, and of its verification, and of the ballots to be used in such election and the manner of voting therein, and the public notice thereof to be given, and the method of certification and recording of the result of said election, shall be prescribed by law, or by the Supreme Court in case the same shall not have been prescribed by law. After the adoption of such proposition, the method of choosing judges of the circuit and district courts of Cook county shall be as follows: Upon the occurrence of a vacancy in the office of any judge of said county, the Governor shall fill such vacancy by appointment, from a list of eligible persons furnished to him by a majority of the Justices of the Supreme Court, including a majority of the Justices thereof from the Seventh Supreme Judicial District, which list shall contain the names of four or more persons for each judge to be appointed, not more than half of whom shall be affiliated with the same political party. Excepting as in this section is otherwise provided, each judge appointed by the Governor for said County of Cook shall hold his office during good behavior. At the annual election in November of every sixth year after the adoption of such system of appointment, an election shall be held in the County of Cook to enable the duly qualified electors thereof to express their approval or disapproval of the judges so appointed and then in office. The method of voting and the form of ballots to be used at such election shall be prescribed by law. If at any such election a majority of the electors of said county voting at such election shall by their votes express their disapproval of any such judge, his office shall, after the expiration of ninety days therefrom become vacant, and he shall be ineligible to appointment as a judge of said court for a period of six years thereafter.

Mr. DEYOUNG (Cook). I move its adoption.

Mr. TRAEGER (Cook). Is that a proposition to approve by a referendum vote the appointment of all judges in Cook county?

Mr. DEYOUNG (Cook). That is what the section provides.

Mr. TRAEGER (Cook). Mr. Chairman, I want to protest against that. I believe it is undemocratic. If 101 counties of this State are able to elect the judges of their respective counties, I believe that Cook county ought to have the same right. I believe that sentiment is against it, and I believe it is undemocratic. It will bring about a condition where the people will have absolutely nothing to say in the selection of their judges.

Mr. DEYOUNG (Cook). Does the gentleman from Cook understand that it is purely optional with the people of Cook county first to adopt it, and after the system is in vogue that there is an election every six years to retire?

Mr. TRAEGER (Cook). I understand.

Mr. DEYOUNG (Cook). This is not an absolute unqualified system of the appointment by any manner of means. First, it cannot be inaugurated unless the people of Cook county so affirm at the election.

Mr. TRAEGER (Cook). By referendum vote.

Mr. DEYOUNG (Cook). By referendum vote. That is the first proposition. And the second one is that if it is inaugurated, why, a judge is subjected automatically to an election every sixth year.

Mr. TRAEGER (Cook). I believe, Mr. Chairman, it creates an expense that should not be placed upon the tax payers of Cook county. I believe we can get better results by electing them.

Mr. SUTHERLAND (Cook). Mr. Traeger, did you vote for the Initiative and Referendum?

Mr. TRAEGER (Cook). I did, yes, sir.

Mr. SUTHERLAND (Cook). Well, don't you think the people ought to have a right to say whether or not they want their judiciary selected so that it will prove satisfactory, like in the State of Massachusetts?

Mr. TRAEGER (Cook). I would, in answering that, ask the delegate whether he voted for the Initiative and Referendum?

Mr. SUTHERLAND (Cook). I certainly did not.

Mr. TRAEGER (Cook). Then why do you advocate now that we should have the referendum and the recall of judges?

Mr. SUTHERLAND (Cook). Because I stated at that time that I favored the referenda on certain questions that have had careful legislative consideration and which were submitted because of their importance to the voters. This is such a question. It has had careful legislative consideration. It is up to the voters to say, but does not permit any Tom, Dick or Harry that wants to circulate a petition to hold up any and every law that he happens to object to. This is a vital matter, affecting the people, whether or not their judges shall be elected or appointed, and it seems to me it is a right that they should have.

Mr. TRAEGER (Cook). I do not believe it is the right thing for any body of men to appoint the judges, even though it has been approved by referendum vote. I believe the people of Cook county are qualified at a regular election to select their judges, and I do not approve of this system because I believe it is undemocratic.

Mr. SUTHERLAND (Cook). Mr. Chairman, I would like to ask another question: If you believe that the people are able to select their judges, and so do I, don't you think they are able to intelligently pass upon a question as to whether or not they want to have them appointed?

Mr. TRAEGER (Cook). Probably so, but why should we have two systems within one State? Does the delegate not believe that if the other 101 counties in this State are able to select their judges that Cook county is?

Mr. SUTHERLAND (Cook). I think, Mr. Chairman, that possibly by the brilliant example that would be set in Cook county, the other 101 counties might want to follow our example.

Mr. SIX (Pike). May I ask Mr. DeYoung a question? As I understand the proposal, you have a referendum as to whether or not you will adopt the system of appointment of judges, but you have no referendum on the question as to whether you will again revert to the old system, is that correct?

Mr. DEYOUNG (Cook). That is the way the proposal reads.

Mr. SIX (Pike). Why is it that you have eliminated the right to reject the system by referendum?

Mr. DEYOUNG (Cook). I might say to the gentleman from Pike that I am only a member of the committee. I am not the entire committee, and if he asks why I do this thing, I have not done it.

Mr. SIX (Pike). I mean your committee. I would call attention of the Convention to the fact that when you get the appointment system under the Constitution, you have no means of getting rid of it. Now, a number of things on the spur of the moment may appeal to us as very sensible, but I think the outlet should be the possibility of changing our opinion on referendum.

Mr. DEYOUNG (Cook). Does the gentleman from Pike understand that each one of these judges is up every sixth year for retirement by election?

Mr. SIX (Pike). I understand the system continues. It may not work. There ought to be some means by which we can change the system, and I don't think you have made any such provision.

Mr. DEYOUNG (Cook). Well, the electors have the present system now, they can go to this. This is in the alternative.

Mr. SIX (Pike). Yes, they won't get it once in a lifetime. I want it a little oftener.

Mr. DEYOUNG (Cook). I was a member of the committee, and I believe this is a sound proposal. All of the lawyers on the committee think so.

Mr. MILLER (Cook). Mr. Chairman, I think that this is a thing, on a little reflection that the gentleman who last asked that question will conclude it answers itself. The proposal here is not to go into effect unless a majority of the voters of Cook county want it, and if they vote for it, they will vote for it knowing that there is no means by a referendum vote of abolishing it. That is one of the things that some persons possibly might urge against it. As for myself, I think it would be no reason against it,

because men who are appointed under this system would be voted upon every six years.

Replying for a moment to the gentleman from Cook who says that he is against it, I can see no escape whatsoever from the conclusion that a man who is against this says that "I am not willing that the majority of the voters of Cook county should adopt a better system of choosing judges if they want it. I say they shall not have that privilege of doing it." That is the result of that position. I want to call the gentleman's attention to this. There is in force in this State now a law on the State books for the creation of a commission form of government for cities. That provides for the election of a mayor and four other officers, and every other city, village or municipal officer, except those five, are chosen by those five. It wipes out the old system whereby they elect many scores of officers.

Now, up to date there have been 62 cities of this State, among them several of the largest cities, that have adopted the commission form of government. They have done so with their eyes open, knowing that thereby they were giving up the so-called right to elect scores of officers. They have done so believing that better results could be obtained by placing in the five elected officers and delegating to them the selection of the scores and scores of other officers. Why should Cook county be denied the right to do exactly the same thing, under exactly the same circumstances? That is the proposition. If it is right to give to cities the right to adopt the commission form of government where they elect four or five officers, and those men appointed all the rest, why is it wrong to give the City of Chicago the right to elect certain officers who appoint the judges and who are able to exercise some judgment in the selection of officers? All this thing does is to give Chicago an opportunity if the majority of the voters so decide for having a better system.

Just a few more words on this subject. In Chicago we have a million voters. We have about 75 judges to be elected. One of the things that everybody who has studied the system knows is this, that where there is a conspicuous office to be filled, the voters may be induced to give sufficient attention to that matter to make an intelligent selection. Where there is an inconspicuous position to be filled, then the voters will not give that attention. If they could be induced to do it, it would cost more than a million dollars to elect each judge in Chicago. Who is there that will say that any voter can properly qualify himself to vote on a judge without giving a dollar's worth of time to that effort, and if he does, it would cost a million dollars to elect each one of the 75 judges in Chicago; it would cost the voters that, and that, of course, is a ridiculously small estimate. Now, the fact is, and any lawyer in Chicago will agree to it, that there is not one voter out of ten thousand in Chicago that knows anything about a majority of the candidates on any judicial ticket. If all the judges we had in Cook county were one or two or three, the voters there might intelligently select them. When you have got 75, you might just as well try to vote intelligently for the school teachers of Chicago or for the school principals. The best judges we have are the most inconspicuous judges. They tend to their knitting, they do not advertise themselves. Every lawyer knows that. In a city that has 75 judges, the good judge who tends to his knitting and does not try to get in the newspapers is the comparatively inconspicuous person. His merits are known to very few persons.

Now, look at the history of it. Here formerly we used to have all city officers elected. As I said before, we have now given the people the right to use some intelligence to select the city officers by electing five men and delegating the job to them, and 62 of the best cities in this State have decided that that is the intelligent thing to do. In Cook county there is not a lawyer in this Convention who practices law in Cook county who would select a clerk in his office by the system that is used there to select judges, and it is getting worse all the time because of the great increase in the electorate and the increase in the number of judges. It cannot be done. It is no reflection on the people to say that they cannot select them. It is

an impossible burden you put on them. It is a reflection upon the intelligence of the voters to say that they will keep in force a system of that kind if they have an opportunity to select some intelligent agency who will select the officers. Why don't we elect by popular vote the general superintendent of our schools and the other superintendents of our various schools? Aren't they just as important to the people as the judges? They are the people who educate our children. They reach more people. The courts reach only one in a hundred or so. The head of the schools and every school teacher and the school system reaches every family and several members of every family in the city.

Take as suggested by Mr. Hamill, the head of the health department; why don't we elect him? Why don't we elect the head of the police department? Why, those men, their functions reach and touch every citizen of Chicago, yet we don't say we cannot get a good man there without electing him. Why? It is because the people of Chicago have intelligence enough to know that they can get a better man by electing somebody who will make a proper selection. Why don't we elect the various park boards of Chicago? Does anybody think our park boards would be better managed if we elected them by popular vote? On the contrary, it is commonly known that our parks are well managed and honestly managed, and I never heard it said in Chicago that we could get better men or as good men if we turned that over to general elections. The fact is, of course, we all know that when the voters are called upon to vote for 75 judges, perhaps 20 or 21 will come up for election next June, and there will be 80 or 84 or more on the ballot, that there is not one voter in ten thousand that can intelligently vote. Anybody living in Chicago that gives any attention to the matter knows that.

Now, is it a reflection on the voters of Chicago to say that they are not capable? Is it a reflection on them to say that they ought to choose a more intelligent system of selecting judges than that? Here is a situation: I stated before the Committee of the Whole here sometime ago that the manager of the Chicago Crime Commission had said that in his judgment it would be a more intelligent system of selecting judges in Cook county, especially for the criminal court, if they were selected by lot from the bar. That may seem like a rather strong statement, but here is something I want to tell you. For some year or two past, there has been in Chicago a Committee of the Chicago Bar Association composed entirely of ex-presidents of the Chicago Bar Association, men who ought to know something about the members of the bar. Their duty is to investigate and report on the various candidates for judicial office. I have talked with all the members of that committee now existing. Recently there was an election for Municipal Court judges. Under this new proposal they are to be the judges of our criminal courts, the most important court in Cook county because, of course, the administration of the criminal law is the most important part of it. There were 46 candidates for the office of Municipal judge. A half a dozen of those were sitting judges. Outside of those there were only six of the 46 candidates who were known to any of the nine members of that committee, or of whom any of the nine members of that committee had ever heard. In order for that committee to get information to give to the bar and to the Bar Association concerning these various candidates, it was necessary for the committee to send a questionnaire to each one of the candidates asking him his history and asking him for references, and it was necessary for the committee to send a questionnaire to every member of the Chicago Bar Association, as well as to the references which the candidate gave, and, gentlemen, this was the conclusion of the committee and each member of it after they go through, that these candidates did not average as well as the average of the Chicago bar. Now, if that conclusion of the committee was true, then it necessarily followed that it would be a more intelligent method of selecting judges where you have got a million voters and 75 judges, to select them by lot from among the members of the Chicago bar. That is not a fanciful statement; it is a mere statement of fact.

The security we have up there, the fact that we get tolerable judges in the Municipal Court and the Circuit Court with this vastly increasing population, and with the increasing number of judges, is due solely to the fact that the average man is honest and that the average man when put into judicial office will try to do his best, and the average man will do that, and that is our sole safety there. You do not get the average man at the bar. Why, gentlemen, if you have an intelligent system of selection and a reasonable certainty of tenure when the incumbent behaves himself, you could get as good men as there are in Chicago to sit either on the Municipal or the Circuit bench. We have a salary there of ten to twelve thousand dollars a year. In the United States courts we have a salary of \$7,500, and there are very few lawyers in Chicago that would refuse a place on the Federal bench at \$7,500 a year, and it is a no more honorable place than a place on the Municipal or Circuit bench. It is a place where public service of the highest grade can be done in any one of them, but who is there that wants to give up his practice and put himself entirely back where he was years ago when he started, because of the fact that a man has occupied a place on the Municipal bench and does not aid him in getting practice after he leaves it. Who is it that wants to do that and leave there in middle life and go back to the practice and build up a practice again? They don't want to do it, that is the fact about it.

Let me touch on one more question before I close. The question has been raised here that the people of Cook county should not be given the same privilege that the people of the various cities of Illinois have to choose their own method of selecting judges; that if they want to choose a better method they should not be given the right to do it. We should give the cities the right to do it, as we have in the municipal form of government, give them the right to choose an appointive system. The commission form of government is practically giving the right to choose an appointive system for the naming of their officers. It is the same thing. This is the same thing; it is framed and fashioned after that act. And it is said that we should not give them that right, we should deny to Cook county the right to do as it pleases in this regard. We should deny to the majority of the voters the right to choose a more intelligent system.

What are the facts? When this method was first proposed for a compulsory method of choosing judges in Cook county, to be put in the Constitution, which was proposed in the beginning of this Convention, that it be enacted in this article, that the people of Cook county shall have no other method to choose their judges than by appointment—when that was done, the judges of the Circuit Court of Cook county, apprehending some danger in that, sent out a questionnaire to every lawyer in Chicago, members of the Chicago Bar Association and others. They did that without any preliminary education or propaganda whatever. They just sent them right out, "Which do you prefer, the elective system or appointive system?" Nothing said about a proper protection of the appointive system, nothing said about a right to recall or a right to vote on them every six years, but plainly the question, "Which do you prefer, elective or appointive?" Now, the members of the judiciary committee of this Convention took this view, that the lawyers would naturally vote in favor of their present system because it is a system that they know and they are familiar with it, and the members of that committee figured that the return on such a referendum among the lawyers by the judges of the Circuit Court, who themselves were elected, and that all this would have an influence, would be five or six or ten to one in favor of the elective system. What was the result? The result was about half and half.

And then what happened? The Citizens' Association of Chicago took another referendum among the same people, and before doing it sent out to the lawyers of Chicago a little four page circular showing the advantages of this kind of a system of appointment and asked them again to vote, and what was the result? Eight out of nine, the same men substantially, about two thousand of them, eight out of nine voted for the appointive system. Not only that, but the same thing was advocated by various organizations

in Chicago whose purpose it is to get good government and efficient government. One of them was the Citizens' Association. They advocated the appointment of the judges, and they advocated that it be put into the Constitution, not as optional but as compulsory. The Union League Club of Chicago did the same thing. The City Club of Chicago did the same thing, and while we are speaking of that, the Woman's City Club of Chicago, with its 4,000 members, did the same thing, and they stated as their reason—now, mind you, here were 4,000 newly made voters—and they said the reason is we realize that the voters themselves cannot select intelligently so many judges, especially where there are so many voters, and we therefore believe in choosing by popular vote a body of men that can select judges with more intelligence. They are not the only ones. The Association of Commerce of Chicago, with its 6,500 business concerns as members, advocates the same thing. The chairman of the judiciary committee of this Convention received letters from literally thousands of citizens of Chicago who are not lawyers, asking that that provision be put into the Constitution. The two greatest newspapers of Chicago editorially advocated that it be put into the Constitution, and it may be safely stated as follows, that there was not a single proposition pending before this Convention that was advocated and urged by so many disinterested people as this very proposal from Chicago, to give Chicago the right to have an intelligent system of selecting judges.

Now, gentleman, just think of this for a moment: The State of Illinois outside of Chicago is greater than any one of our surrounding states; a greater population. This system of electing judges in Chicago, Municipal and Circuit Court, 75 in number, would be just the same as if you gentlemen down State elected by a vote of the whole state every county judge in the State of Illinois. Wouldn't that be an intelligent system, the whole State to elect each county judge throughout the State?

In conclusion I want to say just this: There are strong evidences that the more intelligent of the voters of Cook county want and urge the right to adopt an intelligent system of electing their judiciary. Why should this Convention say, "You shall not have that right?" If it is right to give the people of the cities the right and the power to choose a commission form of government, which has the right to elect five men who will appoint all the other officers, why is it not right that Cook county should be given the right and the privilege of choosing some intelligent system for selecting its judges in lieu of the one which we have, which no one can deny, if it is not true now, will soon be a system whereby we will select not the average of the Cook county bar, but a little below the average of the Cook county bar for our various positions on the bench?

Mr. TRAEGER (Cook). Mr. Chairman, the delegate from Cook, Mr. Miller, has emphasized the fact that he has confidence in the people. I want to say to this delegation that I have as much confidence in the people of Chicago and of this State as any delegate in this room, but I am opposed to place a proposition before the people where a great many of them might not become interested by referendum vote to place into the hands of a small coterie of men the appointing of the judiciary for the people of Cook county. I believe that the voters of Cook county are as able and can vote as intelligently upon the election of their judiciary as they can at a referendum vote give the power to a few men. I have all respect for the bar of Chicago, but I do not believe that all the power should be vested in them in selecting the judiciary for the great mass of the people of the County of Cook. I do not believe that our judiciary will be one iota better, and in fact, I do not believe it will be as good by appointment as when they are responsible to the great mass of the people of the county by whom they were elected, and if candidates for re-election, by whom they expect to be re-elected again. I therefore insisted so far as my own individual opinion is concerned, that I am opposed to the appointment in any form of the judiciary of Cook county.

Mr. DUPUY (Cook). Mr. Chairman, it seems to me the argument just now advanced by the delegate who has taken his seat is entirely beside the point. The question is not now before us whether this is a better or a

worse system of selecting our judges. I was opposed to putting into the Constitution a mandatory provision for the appointment of judges. We have not done that. On the contrary, we have recognized what has been the practice and the traditions of the people for all the history of this State, of electing our judges. What Mr. Miller has said in regard to the defects of the present system is undoubtedly true. I indorse every word of that proposition, and the sole question we have here before us now to be voted on is not whether this is a better system than electing our judges, but whether we shall enable the people of Chicago to change the system we are now providing if they want to do so.

I cannot see any reasonable argument against permitting that thing to the people of Chicago. It is directly in line with democracy, and the idea of democracy as advocated by the gentleman himself and by those who have favored referring questions to the people. If the people of Cook county want to do this, if they are convinced that this would be a better system, why should we deny them that privilege? I voted against the referendum in regard to enacting laws by that method, but I am not at all against it in regard to a thing so simple, so comprehensible, so easily understood, so likely to enlist the interest of every voter in Cook county, as the simple proposition that will be presented to them by this proposition, and that is whether or not we can adopt a better system than the present prevailing system.

So again I insist that the question is not which is the better of the two system, but whether or not you will permit the people of Chicago and of Cook county to have their choice between the two systems, if they want to do so. Our present report puts into effect the old system, continues it, carries it right along, but what objection can there possibly be to allowing the people of the county themselves to determine whether or not they may at some subsequent time wish to put the other system in practice. As I said before, if this were a mandatory provision, putting this in effect, I should vote against it. As it is not mandatory, but is merely permissive, I am very much in favor of it, and shall vote accordingly.

Mr. QUINN (Peoria). Mr. Chairman, I am not very strongly impressed with the argument that Chicago should have the right to determine for itself how the judges of Cook county should be selected, or rather, I don't see the force of the argument that if they desire up there in Cook county to get a better system for selecting judges, that they should have the right to do it, and particularly when all through this Constitution there has been an opposition to allowing the people to express themselves upon propositions such as this. This entire government is based upon the theory of separation of departments, executive, legislative and judicial, and all through this Constitution and all through the arguments here advanced it has been declared and agreed to be fundamental that these departments must be kept separate from each other, and here is a proposition now to give the executive of this State the opportunity to build a gigantic political machine in Chicago through the appointment of judges and giving the executive absolute control over that proposition.

And it is said to be harmless because there is a law in this State that allows cities if they so desire to adopt the commission form of government, and that this proposition they tell us is in line with the idea of allowing municipalities to adopt the commission form of government. Gentlemen of this committee, the law providing for the adoption of the commission form of government by cities also provides for abolishing that form should the city desire to do so later on, and this is a proposition of adopting this alternative method, or this appointment method can be voted on every two years in Cook county until finally at some election it is put over, and the people have lost the right to select their judges, and they have lost it through this Constitution without any opportunity of ever having it changed.

It is not fair to say that this is as workable as the law providing for commission form of government. This is a bill for the purpose of enabling the people in Chicago who are either lazy or too lacking in intelligence to

pass on the proposition of having somebody else select their judges for them. If they are unable to select their judges up there intelligently, why assume that they may intelligently select the members of the legislature? Why assume that they can send down here men to make laws when they haven't the ability to select men to construe the laws, or to hold their courts? Why not provide that if the County of Cook desires to do so it may adopt by a referendum vote a plan by which the judges of Chicago should recommend members of the legislature, and that the Governor of the State from the list of nominations may select the representatives who come to the House and Senate from Chicago? You know there is a great, large, force or element of every community that is either too indolent or too lacking in public spirit to find out what the sentiment of a community is. The Association of Commerce and Clubs like the Union League Club, these gentlemen of idleness and a desire to keep away from the common herd, they sit around and would like to have guardians appointed to make selections for them and to determine who the judges should be. This is a proposition, if you look at the political side of it, to make perpetual Republican judges in the City of Chicago, and not Republican judges who meet with the standard of those who are leaders in the Republican party, but Republican judges who may meet with the approval of the judges of the Supreme Court.

The great County of Cook is to pass on this proposition to destroy the ambition of men, to select judges from one ward or one community in Chicago, to bring them from one group of the citizenship of that community, and let the judges of the Supreme Court suggest four names for every vacancy, half of the names to be members of one political party and half of the other. Why not put it in here, if you are absolutely fair and desire to keep politics away from the courts, that the Governor shall select one-half of the judges from one political party and one-half from the other? And I notice another strange feature here, gentlemen, a majority of the judges of the Supreme Court are to make these nominations, a majority of those coming from the six districts are to make the nominations, and the gentlemen have anticipated that they are to have several judges in Chicago, and those several up there must approve by a majority vote the selections to be recommended to the Governor. The language of it is that a majority—not the exact language, but the necessary conclusion is—a majority of the judges down State shall recommend, or a majority of the judges coming from the first district shall recommend.

My opposition to it is mainly that it gives the executive of the State control over a large part of the judicial system of the State. No Governor should have that power; no man should have the power to select the judges for the people. No man should have the power to put these men in office and build up necessarily a great political machine, using the courts to assist and aid him in acquiring his ambitions. Gentlemen, I am satisfied that this springs primarily from the thought that the people of Chicago lack sufficient intelligence to select judges. It is admitted that the people of Chicago are not acquainted with the members of the Chicago bar. It is admitted that the officers of their bar associations up there so lack in acquaintanceship that they are unable in many instances to locate the persons suggested for these nominations. It is a proposition to inject party politics permanently into the judiciary of Chicago. It can be denied; men can pose as having ideal ideas in this matter, and are being imbued with idealistic theories, but it gets away with the proposition that the people shall pass upon these judges, shall elect them, and it is not imagination to say that when a man has served six years that you have to vote him out of office. These are life jobs, practically. Every one of the 75 or 100 judges of Chicago will be interested in seeing that the conduct and work of those who are attacked, we will say, at the end of their terms is approved. It will be a combination to keep in office the fellows who are serving with them, and this is not a proposition that every six years these names are to be re-submitted to the Governor. This is a proposition by which the people may vote them out of office, so they assume that the people have

sense enough to vote these judges out and at the same time contend they haven't sense enough to select them and vote them in.

I am opposed to the proposition. I don't think that it is fair from any standpoint. I don't think it is democratic. I don't think it is in harmony with the principles of our government. It is taking away from the people the right to pass upon these men who are to construe the laws and to conduct the courts, and I oppose it principally and primarily because it gives control of the executive over a large branch of the judicial system of this State.

Mr. REVELL (Cook). Mr. Chairman, I do not rise to speak on the political or the judicial features of this proposition, but I am wondering if the delegate from Peoria desires that his reflections upon some of the organizations up in Chicago should stand as a part of the record of this Convention. And while I might mention all the organizations he has referred to, I will call attention to but one, namely, the Association of Commerce. There is an organization which has done more probably that is of a disinterested character than any organization that was ever started in the State of Illinois. It does not hold itself strictly to its name, the Association of Commerce. It takes up and takes a part in everything that is for the benefit of business and of labor, especially in the City of Chicago and throughout this State, and why the gentleman should feel it necessary in a debate of this kind to reflect as he has upon the Association of Commerce is something I cannot understand. I am a member of all, I think, of the organizations he has referred to, but that has nothing to do with it. I happen to know about the work of the Association of Commerce. It never touches politics. It avoids politics at every point, and I believe that with this simple statement he would not want the record to remain intact that he has caused the reflection that he has caused not only upon the Association of Commerce, but other patriotic organizations in the City of Chicago.

Mr. MILLER (Cook). Just a few words in reply to the gentleman from Peoria who speaks with such heat against the giving of Cook county the right to choose, if they so decide by a majority of the voters, for a plainly written improvement upon the system of selecting judges. I haven't yet gotten just the idea of why he is so opposed to Cook county having that right, but I want to say one or two things in reply that may allay some of his fears.

In the first place, he fears it is a Republican scheme. Well, the plan and system here provided for choosing judges was submitted to some of the most eminent and influential lawyers of the Chicago bar who are members of the Democratic party, and it was approved by them. That is all I have to say about that, and I think their judgment is just as good as the gentleman from Peoria, although I have very great respect for his judgment, and I think that their loyalty to the Democratic party is just as firm as his, although I have very great respect for his loyalty to the Democratic party.

Now, he says this will give the Governor the control of a great machine. He is mistaken about that. The Governor can choose no one except from the list submitted by the Supreme Court. The Supreme Court can never in any case name the man. That would deprive them of any political power whatsoever, they cannot name any man; they can only recommend. Their very interest would be to choose men solely on the basis of fitness. Why? Because every time they got a fit man their work would be made easier, and every time they got an unfit man, their work would be made more arduous. The Governor can choose only from the list selected. He has no right to go browsing around and picking men for political purposes. He is absolutely deprived of that opportunity.

And now, while we are on the subject of the danger of that, let us refer just for a second to the various states of this union where they have had the unrestrained appointive power in the Governor, subject only to a confirmation by the executive council, which corresponds to our Senate. That is the case in Massachusetts, and has been since the founding of the state, and every once in a while in a Constitutional Convention there has been some effort to change it, and it has been fully debated and overwhelmingly

voted down and that took place in the year 1917, showing the universal satisfaction. I have talked with many members of the bar of Massachusetts on this subject, and they say there is absolutely no dissatisfaction with the courts of their state on the ground that they are against progressive legislation, on the ground that they are against the poor man, on the ground that they are arbitrary, or anything of that kind. In fact, the Supreme Court and the courts of Massachusetts have been one of the foremost courts in this country to uphold progressive legislation, to uphold legislation in the line of such things, for instance, as the limitation of hours for working women, the workmen's compensation acts, and other things of that kind.

We have again the judges of the Chancery Court of New Jersey, and the Chancery Court of New Jersey stands higher, as we all know, than any chancery court in the United States, and every one of the judges of the Chancery Court of New Jersey are appointed by the chancellor in chief, and he is named by the Governor. That is the situation there. Who has ever heard of any remarks or anything except praise for that court? In almost every one of the New England States the Governor has the unrestrained power of appointing judges. Personally, I would not want to see that here, and every complaint along that line voiced by the gentleman from Peoria has been carefully guarded against here, and one of the reasons is to make it plain to the voters of Chicago that nothing of that kind can occur, so that when this matter is submitted to the voters of Cook county they may be well assured that that thing cannot happen.

I have one or two things more. He speaks as if this were a reflection on the intelligence of the people of Chicago. I say that it is a reflection on the intelligence of the citizens of Chicago to presume that they want eternally to keep on selecting their judges in a manner that no Chicago lawyer would select a clerk in his office, to turn that matter over because we have as low as 18 per cent voting at judicial elections. You cannot get the people out to vote, they are not interested in the tickets, it does not appeal to the average voter, he doesn't know anything about the men, why should he go, and it is turned over to the ward committeeman. He absolutely has got to do it. In other words, you load down the ballot so that the voter cannot carry the load, and he necessarily defaults, just the same as he does when you make him to go an election, primary or otherwise. a half a dozen times a year. He says, "I cannot stand the strain, I haven't got the time, I cannot make a living and at the same time discharge my duties to the citizens of the State by going to an election every few months and qualifying myself to vote on sometimes as high as 435 candidates on a ticket up there." That is why they recently turned it over to a ward committeeman, and yet the gentleman say here that this will allow a few people to select the judges. Why, in a great city like that, with a million voters, when you ask them to do this thing, the only way they can do is to turn it over to some one, and the question is not whether they shall select an appointive system of judges, but whether they shall select a new appointive system, differing from the one they have today, that is the only question—a different kind of an appointing system, to appoint or elect a responsible person, intelligently chosen, who can choose intelligent men and is interested in so doing, instead of the ward committeemen who have no interest in the world in choosing the best men.

Why? Because anybody that is as inconspicuous as that, you cannot elect an independent man ever, and it has never been done. Why, up there in Chicago a few years ago the bar was so dissatisfied with the nomination of the judges they put up two independent men and in the whole County of Cook they got 3,500 votes and nobody denied that they were two of the best men at the bar in Chicago. In other words, gentleman, if an office is not sufficiently conspicuous so that sometimes an independent candidate can break in, there is no inducement whatsoever for the small coterie of men who nominate these men to select the best men. They can choose them from wholly different motives.

Just one more word: I have stated that under the present system a million voters have got to select 75 coordinate officers, that it is an impos-

sible thing to be done intelligently by any set of voters in the United States. What is the proof of it? There is not another such system, in Illinois, in Chicago or elsewhere, where 75 officers, co-ordinate, are selected by an electorate of a million people, not any such situation anywhere. We have got a few state officers that are selected by the State at large, but only a few. We have legislators and senators who are elected by comparatively small districts, where they can know the man, but no place in Illinois except right here is there any such absurd system as a million voters voting for 75 judges, and the only parallel I could think of would be if you gentlemen in the State should vote that every county judge of Illinois should be elected by the whole people at large, then you would have an expense of electing your county judges and a lack of intelligence in doing it equal to this. The present system up there means that it costs probably \$75,000,000 to elect the 75 judges when you take into consideration the minimum time that any voter ought to spend to acquaint himself with the qualifications of any judge, and, as a matter of fact, they do not select, because you cannot even drive them to the polls. When you get 18 per cent to the polls, there are the 18 per cent that are driven there by the party organization, that is all there is to that.

Mr. RINAKER (Macoupin). May I ask Mr. Miller a question or two? This proposal for the appointment of judges as advocated, is it made simply by those who believe that as a general principle better judges can be selected everywhere by appointment, or is it the result of some condition that you are yourselves experiencing?

Mr. MILLER (Cook). It is a result of the peculiar condition in Chicago, where there is so great an electorate electing so great a number of judges, and is not based at all upon the proposition that where there is a comparatively small electorate or a comparatively few officers to be elected so that they are conspicuous and interesting, that it cannot be intelligently done.

Mr. RINAKER (Macoupin). Then you find that by reason of the great population and the large number of judges, that it is impossible to educate the people to an intelligent selection?

Mr. MILLER (Cook). It is impossible to get them to participate, they haven't got the time to acquaint themselves with the merits of the various candidates.

Mr. RINAKER (Macoupin). And that is by reason of the congested populations?

Mr. MILLER (Cook). Oh, no, not at all.

Mr. RINAKER (Macoupin). That does not contribute to it?

Mr. MILLER (Cook). I said that the same situation would exist if you down the State provided that every time you wanted to elect a county judge in Macoupin county, he should be elected by the whole State of Illinois.

Mr. RINAKER (Macoupin). The difference there, however, would be that the people of Macoupin county in selecting their judges now do know the judge for whom they vote.

Mr. MILLER (Cook). Oh, no, that is the very point, they don't.

Mr. RINAKER (Macoupin). I say in Macoupin county they do, but in a city as large as Chicago that is impossible.

Mr. MILLER (Cook). The point that I am trying to make is this: It does not make any difference whether they are in Chicago or whether they are down the State. If there are a million voters here called upon to elect one inconspicuous man, or 75 or 100 inconspicuous officers, they cannot and they will not take the time to investigate.

Mr. RINAKER (Macoupin). And that condition then exists by reason of the situation in Chicago now?

Mr. MILLER (Cook). No, it does not at all. It is by reason of the fact that there are a million voters that are called upon to select these people, and just the same as there would be a million voters down the State if you tried to select the county judge of Macoupin county by the whole State.

Mr. RINAKER (Macoupin). But in the practical result up there the judges are selected by your political organization.

Mr. MILLER (Cook). They have to be, the same as they would be down the State. Your county judge in Macoupin county would have to be selected by the State organization, if you had him elected by the whole State.

Mr. RINAKER (Macoupin). Oh, yes, but I am talking about the actual condition existing in Cook county today.

Mr. MILLER (Cook). We actually have a million voters.

Mr. RINAKER (Macoupin). And the judges are actually appointed by your different political organizations?

Mr. MILLER (Cook). Yes.

Mr. RINAKER (Macoupin). That is because the people cannot and do not take the time to select them?

Mr. MILLER (Cook). Just for the same reason that I illustrated about the Macoupin county judge.

Mr. RINAKER (Macoupin). If you adopt this proposal, the voters at the time who would adopt it would restrict and control the voters for all time in Chicago?

Mr. MILLER (Cook). Not necessarily, the Constitution could be amended at any time.

Mr. RINAKER (Macoupin). I say in the absence of a constitutional amendment they could do so.

Mr. MILLER (Cook). Yes.

Mr. RINAKER (Macoupin). It would be a very radical departure from the plan of selecting that has heretofore been adopted?

Mr. MILLER (Cook). Nobody in the world can deny the fact which now exists by reason of the facts which I have stated; the judges cannot be selected, and they have the right to be retired every six years; of course the voters are better able to pass on a man that has served six years as a judge than the man they have never heard of.

Mr. RINAKER (Macoupin). The question I wanted to ask, although I take it you have answered it clearly, is the plan of selection is a wide departure from the plan heretofore existing in this State?

Mr. MILLER (Cook). A different agency for the appointment.

Mr. RINAKER (Macoupin). More than that; this is an appointment and there has been nominally an election.

Mr. MILLER (Cook). It has actually been appointment heretofore, and this is frankly appointment, and that is the difference.

Mr. RINAKER (Macoupin). But as a matter of fact the voters have voted in that way to elect the judges.

Mr. MILLER (Cook). It went merely by chance, that is all.

Mr. RINAKER (Macoupin). I understand that part of it, but you are entirely reversing the policy of the State, instead of electing them formally, you are appointing them openly?

Mr. MILLER (Cook). We are changing it; not reversing it. Changing it when a majority of the voters vote that that shall be done.

Mr. RINAKER (Macoupin). Of course the change shall not be effective until it is ratified by the majority vote of those voting on the proposition.

Mr. MILLER (Cook). In Cook county.

Mr. RINAKER (Macoupin). I understand that. The effect of it would be a very small number of people would in effect control the entire judiciary of the City of Chicago?

Mr. MILLER (Cook). They could not control them if the people voted them out in six years?

Mr. RINAKER (Macoupin). For at least six years.

Mr. MILLER (Cook). There is a considerable number of states where they now have the appointive system with perfect satisfaction.

Mr. RINAKER (Macoupin). The fact remains you change it.

Mr. MILLER (Cook). The fact remains the majority of the Supreme Court would name an eligible list, and the governor would select from that list.

Mr. RINAKER (Macoupin). There would in that way be a very small number of people who govern Cook county in the matter of the judiciary.

Mr. MILLER (Cook). There would be a small number chosen by the people to select the judges; in other words the people designate the selection the same as they do in the commission form of government.

Mr. RINAKER (Macoupin). All done by the people in the preliminaries of course.

Mr. MILLER (Cook). Yes.

Mr. RINAKER (Macoupin). The real evil that is the cause of all of this is that the best qualified citizens of Chicago, as you say, haven't the time to acquaint themselves with these men, that is they are too busy with their own affairs to take such action.

Mr. MILLER (Cook). No, I did not say that.

Mr. RINAKER (Macoupin). I thought you did.

Mr. MILLER (Cook). No.

Mr. RINAKER (Macoupin). I thought you said that they hadn't time to become acquainted and learn their qualifications?

Mr. MILLER (Cook). Did I limit that to the best citizens?

Mr. RINAKER (Macoupin). You did not limit it.

Mr. MILLER (Cook). I did not say the best citizens, I said all kinds of citizens; there is no question but what the citizens have not got the time.

Mr. RINAKER (Macoupin). It is the fact that the best citizens express themselves through the organizations mentioned here by Delegate Revell?

Mr. MILLER (Cook). No, I would not say that; I would not say that at all. I think it is all kinds of citizens.

Mr. RINAKER (Macoupin). I did not want to say something on the proposition; and I think the answers sufficiently develop what to me is a good reason for the adoption of this proposal, and that is that the conditions existing in this great city of this State, are such that they fully justify this departure from the established order of things, as it has obtained in this State. It may work well and it may not work well, but with the approval as it has of the delegates of this Convention, at least on this committee, and as I take it from the majority of the delegates of Cook county, their approval of it, is sufficient that we who might otherwise think differently of it, we down State members, in my opinion can see the objections that we have to it, can give Chicago and Cook county an opportunity to try it out. This is an experiment. If it is not good it can readily be repealed by an amendment to the Constitution. If it works well in the opinion of these gentlemen, whose opinion we admire, it will add to the quality of the judiciary in Cook county. From what they say about it they are certainly entitled to some improvement in the judiciary, seriously and without regard to the partisan nature that has been injected into it. It seems to me that this is a fair experiment for the betterment and improvement of conditions in this State, and particularly in the great City of Chicago in which we are so much interested. As one I am voting for the motion.

Mr. LINDLY (Bond). If you propose to do this don't you think it would be better to embody in this article the right of the people there to determine for themselves whether they will tire of this proposition, without submitting it to a constitutional amendment?

Mr. RINAKER (Macoupin). I don't. I am not in favor of the frequent referendums, as I have heretofore expressed myself. I am in favor of a permanent Constitution, with difficulty in its amendment, but of course, reserving the right to amend whenever a majority of the people wish to do so, and whenever this experiment shall have been tried and found unsuccessful in Chicago I know the people down State will unite with the people of Chicago in adopting an amendment that will eliminate it.

(Section adopted.)

Mr. DEYOUNG (Cook). The Committee on Department of Judiciary has reported by an additional section to be known as section 46, which I will ask that the clerk read, and I move its adoption.

(Section read.)

Mr. JARMAN (Schuyler). I ask the indulgence of this Convention for a few minutes in presenting this, as I view it highly important and constructive amendment to this article.

Last week I gave to the chairman of this Committee on Judiciary Department, a copy of this proposed section and asked him to carefully consider it; and I would be glad to have him give the Convention the result of his consideration and his views upon this proposed proposition.

The language of this proposed section is somewhat technical, and it may be with many busy lawyers the subject has escaped their attention, but to the student of the law as a science, it is fairly well understood.

In legal phraseology this principle of procedure and relief is known as "Declaratory Judgments."

You will note that the first part of the section reads: "No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or decree or order is sought thereby." That is in an action in which the parties ask the court merely to declare or find the legal relations or status of the parties, to declare their legal rights.

The second part of the section provides: "And the court may make a binding declaration of right whether any consequential relief is or could be claimed."

"Consequential relief" in any action is that relief which follows the finding of the rights of the parties, and is given in consequence of those rights; to inhibit a party from violating those rights; to make restitution or respond in damages. For example: a party is enjoined from doing a threatened or continuing act by injunction, to restore the possession of property as in ejectment or replevin; to pay damages for breach of contract.

Declaratory judgments or decrees do not order anything to be done; they merely declare the existence of a jural relation or status; they do not even presuppose a wrong already done or a breach of duty.

The common law idea and theory of justice is a suit for a wrong committed, before it will give any right of action. It demands that a wrong be committed before it will define a right, and refuses to define a right, except for the purpose of basing thereon a punishment in damages or otherwise; and all its writs and processes are for the correction or punishment of a wrong committed, while the idea and theory of the principle of "Declaratory Judgments" are to define, to declare the rights of parties before a wrong has been done, before a breach of duty.

That I may indicate more clearly the meaning and purpose and operation of such a principle, let me state an example:

A and B enter into a contract. There is an uncertainty and disagreement as to the construction of the terms of the same. Under our present practice, one of them must violate the contract before they can have their rights defined by the court. They are both sincere and honest in their different claims. A breach of the contract may involve great loss, subject the party to heavy damages, forfeiture, and may be his financial ruin. The parties may get into a suit, followed by delay and expenses of litigation; acrimony may take the place of business sense, and destruction follow to the parties and to the public.

Under the procedure of the principle of "Declaratory judgments", if there is a disagreement, one or both of the parties can go into court before any breach of the contract, have the contract construed, their rights defined and proceed with its execution, with the saving of time, expense, loss and sometimes ruin.

I do not wish to be understood as presenting to this Convention in the proposition something original or new. It is not new at all. It has obtained in some jurisdictions for over 50 years.

Several years ago I spent some time in the Courts of London, and it was then that my attention and interest was first attracted to this procedure, and I have followed, to some extent, the discussion of it since. But I had always supposed that it was a purely statutory matter, and I had never heard or read of any question of the constitutionality of a statutory provision for such procedure, until the last few days to which I will refer in a few moments.

England first passed an Act in 1852 as follows: "No suit in said court (chancery) shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the court to make a binding declaration of right without granting consequential relief."

Under that great Judicature Act passed by Parliament in 1873, and the reforms made possible thereby, the Supreme Court adopted a rule providing as follows:

"No action or proceeding shall be open to objection, on the ground that a merely declaratory judgment is sought thereby, and the court may make binding declarations of right whether any consequential relief is or could be claimed, or not."

Under this provision the Courts of the British Empire has been administering the law for over 50 years, with marked success, with highly satisfactory results, and with a constantly broadening of the relief to a greater number of types of cases, so that the records of the past few years show that more than one-half the cases in the Courts of England seek this relief.

You will note that the section I have proposed is nearly an exact copy of the rule of the Court of England. This procedure is following throughout the British Empire, by France, Italy, Germany and Spain. Indeed, you may find a like procedure in the Roman law.

Similar statutory provisions have been passed in the states of New Jersey, Wisconsin, Michigan and Florida. In 1915 in New Jersey, and 1919 in Michigan.

That this subject may be made clearer I will read the Act of Michigan.

MICHIGAN ACT.

There is now before the Judiciary Committee of Congress a similar Act, to apply, of course, to the Federal Court.

The American Bar Association, at its meeting in St. Louis, in August, appointed a committee to push through the next Congress this proposed Act, giving the Federal Courts power "to make binding declarations of rights whether or not consequential relief is or could be claimed at the time."

Questions and cases submitted for declaratory judgment are varied and numerous.

To determine and settle the rights and title with reference to future interests; reversioners and remaindermen; that plaintiff had a future power of renewal of lease; that a contract which had some time to run was not binding on plaintiff; rights of life tenant with reference to forfeiture; to test the validity of insurance policy by assured which company had repudiated.

To establish the legitimacy or illegitimacy before any property rights become involved.

To declare the existence or non-existence of marriage; the relation of parent and child; the judicial declaration of death; that plaintiff is heir to another.

To declare the construction and interpretation of deeds, contracts, leases, mortgages and other written instruments and documents; wills, deeds of settlement and trust.

To determine the powers of associations and corporations involving the construction of their by-laws and charters.

Declaratory actions may be brought to construe and interpret statutes, executive regulations and ordinances when required for determination of a certain right.

It was many years before the business world knew what the Sherman law meant, and business men did not and could not know whether a specific agreement was in violation of that law.

Long and expensive litigation followed and combinations were separated, to the destruction of business, and economic loss.

Under the procedure of "Declaratory Rights", persons desiring to organize a combination of interests could bring their agreement into court, make the Government a party, and have it immediately determined by the court whether their agreement was in violation of that law.

Declaratory actions are brought to settle all rights or interests in real and personal property.

Many more types of cases might be cited, but these are sufficient to indicate the scope of this procedure and relief.

Section 50 of the Chancery Act of this State provides as follows:

"The court may hear and determine bills to construe wills, notwithstanding no trust or questions of trust or other questions are involved therein; and hear and determine bills to appoint trustees, and authorize trustees to lease, mortgage and sell, improve, exchange and invest any portion or all of any trust estate, or to do any other act or thing, or exercise any power and discretion which is necessary for the conservation, preservation, protection or betterment of said estate during any period of contingency, pending a contingent remainder or executory devise or otherwise; and may also hear and determine bills to quiet title, and to remove clouds from the title to real estate, and bills to establish and confirm titles to real estate or incumbrance thereon, whether the lands in controversy are improved or occupied, or unimproved or unoccupied; and the taking possession of such lands, after the commencement of suit by the party claiming the title or the adverse title, or any one under or through such person or persons shall not in anywise affect the complainant's right to a final decree upon his bill."

In the cases enumerated in this section the right of action is, in its nature, declaratory; but you will note are limited and of purely chancery jurisdiction.

I think it will sufficiently appear from this brief statement that the design and purpose of this relief is to ascertain and establish the jural relations and rights of parties, so that the parties can control their acts accordingly and thus avoid unnecessary litigation, delay and loss.

The question will no doubt be suggested: cannot the General Assembly now pass a law covering this subject? and is not this proposed section legislative?

I said awhile ago that I had always supposed that this subject was properly a matter of statutory enactment, and not in conflict with the powers of the court as generally given in the Constitution. If I had thought otherwise I would have submitted to the Convention an independent proposal for the consideration of the Judiciary Committee. I have read to you the Michigan Act. In the last few days I have noted the case of *Anway v. Grand Rapids Railway Co.*, reported in Vol. 179, page 350, of the N. W. Reporter, and published on Nov. 12, 1920.

So that it will be seen that the constitutionality of such a statutory act is in doubt.

You will note that the last words of this section which I have offered are "as may be provided by law." Therefore this section, placed in the Constitution, only makes it possible for the General Assembly to pass an act on this subject, and that it will not be unconstitutional if passed. The section I offer is not self executing. The exercise of this power or jurisdiction will be subject, from time to time, to the action of the legislature, and as a matter of course as directed by and under the influence of the courts and the bar. I would prefer myself, that those last words be omitted. But I am a little timid in asking this Convention to go that far; so that I

am only attempting to get this Convention to so fix this subject, that if at any time in the future it may be thought beneficial and wise, this power and jurisdiction may be given to the courts, by statutory enactment.

Place it in the Constitution and you will have given to this State a great constructive principle in the administration of law, in the conservation of interests, in the protection of property and rights, in saving delay and expense of litigation and in lessening the labors of the courts.

Mr. HAMILL (Cook). Am I right in understanding your concluding remarks, as indicating that your understanding is if the section is adopted, until the legislature has passed a law providing for declaratory judgments, no such judgment could be entered?

Mr. JARMAN (Schuyler). Yes, that is the statement I made to the committee.

Mr. HAMILL (Cook). I quite agree with what the gentleman from Schuyler has said in criticism of the decision of the Supreme Court of Michigan. In the first place there was no requirement before that court to decide upon the constitutionality of the question. They held that the case before them did not fall within the statute, and they properly so held in my opinion. Therefore the majority opinion of that court was *obiter* so far as the constitutionality of that act was concerned. I do not believe that need exists for putting this clause into our Constitution. By the first section of the act on judiciary the judicial power is vested in the court. A judicial power which it has not, ought not to devolve on the court; if it has the judicial power it is theirs by right of section one of the judiciary article. Personally I think it is a judicial power if it be confined to where personal rights are involved and not merely as a moot question. I think the minority of the Supreme Court has said, and I quite agree with the distinguished delegate from Schuyler, in stating what we as lawyers know, that a good deal of stress and much doubt could be relieved if there was an opportunity for the controversy to be presented to the court before a case of actual invasion of right is incurred. I am not so sure as to the question of statute construction, as illustrated by the delegate from Schuyler, because it is possible that statutes could be construed where there was no controversy. It is the theory of our law that out of controversy truth arises. The hammer hitting the anvil extracts the truth and we get at things in our courts by controversy, where counsel on either side are opposing each other, struggling to succeed for their clients. I would question the wisdom of the construction of a criminal statute for instance where the result was not the imposition of a penalty, because it is only the imposition by which you will get a close and sound construction of your statute; but there are many cases that I can fancy and that I can imagine where it would be of great advantage to parties in the settling of property rights if declaratory judgments could be entered. I think the General Assembly has power and will have power under any Constitution which may be adopted as the result of the deliberation of this body, which won't be any in my humble opinion, to declare or provide for declaratory judgments so far as they are within the functions of the court, and so far as they fall within the definition of judicial powers.

Mr. JARMAN (Schuyler). You recognize the fact that the Michigan Supreme Court has declared the whole act unconstitutional?

Mr. HAMILL (Cook). Yes.

Mr. JARMAN (Schuyler). I agree with you as to the minority opinion in that case; now is it good policy in view of the fact that is so, for you or me to refuse to adopt this as a part of the Constitution simply because we as lawyers do believe it is constitutional?

Now the first section of the judiciary article gives to the courts all judicial power, but the courts may say that means such judicial power as they heretofore had, and while I agree with you as to your position do you think it is safe, if you want this relief to leave this out of our Constitution, and have our Supreme Court decide it as the Michigan Supreme Court did?

Mr. HAMILL (Cook). The gentleman's question is a little bit complicated. In general I would answer yes. I may be immodest in putting too much confidence in my own judgment on the constitutionality of such a statute, but to my mind the reasoning of the majority opinion in the Michigan case is quite unsound. I can hardly conceive of our court following it.

Mr. JARMAN (Schuyler). I fear that they might.

(Section adopted.)

Mr. DEYOUNG (Cook). The report of the Committee on Judiciary Department as it affects sections six and seven, the committee has been unable to arrive at a decision that is an agreement among its members. These sections are those which involve the question of the Supreme Court judicial districts of the State and the election of the justices of the Supreme Court.

Mr. GEE (Lawrence). May I offer an amendment to section 47 now? "Amend section 47 by striking out all after the word 'judiciary' in line nine, and inserting the following: 'or engage in the practice of law so long as he shall hold the office of such justice or judge'."

The only point in this amendment is to prevent the practice of law by the judges while they hold the office of justice.

Mr. TODD (Peoria). My recollection is when the Committee of the Whole adopted these sections they were reported out to the Convention, and the Convention adopted the report of the committee and sent it to the Committee on Phraseology and Style, with the exception of the sections recommitted in the report of the Committee of the Whole.

Mr. DEYOUNG (Cook). I may say that section 47 was one of the sections recommitted, so it is open for reconsideration in this committee, having been adopted this forenoon.

Mr. GEE (Lawrence). I move its reconsideration; I move the reconsideration of section 47.

(Adopted.)

Mr. GEE (Lawrence). I move you, Mr. Chairman, that section 47 be amended by the amendment offered by myself.

(Amendment adopted.)

Mr. DEYOUNG (Cook). We now recur to the adoption of the section as amended, which I now move.

(Section 47 adopted.)

Mr. DEYOUNG (Cook). Now the only sections undisposed of are sections six and seven in the report of the Committee on Judiciary, and the committee has been unable to agree as to those sections, and for that reason has reported them back to this committee for consideration and determination.

Mr. GREEN (Champaign). The chairman of the committee is correct in stating that no plan has been finally worked out by which the committee would be in agreement with reference to the subject of judicial apportionment.

Mr. DEYOUNG (Cook). For the Supreme Court.

Mr. GREEN (Champaign). There has been considerable discussion, and obviously it is admitted by all that the reapportionment, or the subject of apportionment does not arise under sections six or seven; it arises under section 42, and then if section 42 were changed it might become necessary to change section six. So far as section seven is concerned it belongs in the schedule anyway, and will in whatever form it is finally adopted in all probability be taken by the Committee on Phraseology and Style from the judiciary article and put in the article on schedules, because it has to do with extending the terms of judges and fixing the expiration and a part of it perhaps might be retained in the judiciary article. Section forty-two is the section which provides that the boundaries of the districts, for the election of justices of the Supreme Court, and the boundaries of the Appellate Court districts may be changed by the General Assembly, but such alteration shall only be made as nearly as county boundaries will allow upon the basis of equality of population, and of districts

composed of contiguous counties in as compact form as circumstances will permit. Alterations to be made so as not to effect county lines. Of course, of necessity, under some of the suggestions offered before, in all probability if this reapportionment is made it will be necessary to modify this provision that county boundaries should control, therefore if any agreement is reached about any reapportionment it will first be necessary to determine whether it will be a constitutional reapportionment made by this Convention or whether it will be a legislative reapportionment made by the General Assembly. And we have not even gotten past that place because the committee was divided as to which it ought to be. In view of the fact therefore that the number of the judges has not been settled by the committee, the same members of the committee who presented the minority report present this morning as its report, together with the unanimous report of the committee, the recommendation that section six as previously reported by this minority shall be adopted, and that section is the same as it is in the present Constitution, and I would like to have the clerk read.

(Section read).

Now that is the exact language of the present Constitution, and if later in the work of the Convention section 42 is changed so as to provide for legislative reapportionment, this section would not need to be changed in any event, because until the reapportionment was made I take it we all agree that the districts should remain as now constituted until such time as the district were changed. Therefore the minority of the committee moves the adoption of section six as stated.

Mr. TRAUTMANN (St. Clair). I would like to ask the gentleman a question; I may be mistaken, but I understood the gentleman to say the other day when section five was under discussion that he personally did not object to a change being made in the districts so that there would be six in the districts and one judge elected at large. I would like to know whether any effort has been made to attempt a change in that direction?

Mr. GREEN (Champaign). There—I don't remember about the one judge at large, I don't remember that part of it, but I did say so far as I was personally concerned I had no objections to redistricting, and creating six districts, and we have taken that up and tried to get enough of the delegates to agree to some such plan but have been unable to do it at this time. Whether it can be done in the future I don't know.

Mr. DAVIS (Cook). I wonder if my recollection is correct. If it is not, I would like to be enlightened at this time. Wasn't it said on the floor of the Convention by the gentleman from Champaign that if a seven judge court was adopted that he and his colleagues would see to it that the seventh district would at least have two judges in it. Isn't that so?

Mr. GREEN (Champaign). No, that is not what was said.

Mr. DAVIS (Cook). What was said?

Mr. GREEN (Champaign). What was said was that I would not attempt to speak for anybody but myself, but that I believed it was the hope of the majority of the delegates that some reapportionment or some arrangement could be made so that out of the seven justices, not in the City of Chicago or in the County of Cook, but in that district, it might be possible to work out two justices and that I, personally, would use my best efforts to bring about that result.

Mr. DAVIS (Cook). The gentleman from Champaign will remember when the debate was on and the question under consideration was whether nine justices or seven justices would constitute the Supreme Court that the gentleman from Champaign said the number of the judges hadn't anything to do with the particular representation which the present seventh district was to have on that court.

Mr. GREEN (Champaign). I did.

Mr. DAVIS (Cook). Now—

Mr. GREEN (Champaign). Let me answer that question before you go on. I did say that and I say that yet.

Mr. DAVIS (Cook). What do you say?

Mr. GREEN (Champaign). That the number of judges has nothing to do with what district they are to be selected from. The size of the court.

Mr. DAVIS (Cook). I don't agree with the gentleman from Champaign now any more than I did then. I followed up that inquiry and said it was unfair, I charged him with unfairness, said it was unfair to present it that way and call attention to the fact that the matter of representation in the seventh district would be taken care of by the following section, whereupon the gentleman from Champaign said: "I would be ashamed of the fact if I even suspected the gentleman from the seventh district of an act of that kind, in a conversation of that sort." Isn't that true?

Mr. GREEN (Champaign). My judgment is you stated you would meet on a fair basis, on which legislative reapportionment could be worked out, and it is the stubborn refusal not to have anything but legislative reapportionment and two judges which would not get you anywhere, that is before us.

Mr. DAVIS (Cook). Did the gentleman have in mind legislative reapportionment when he assured us that justice would be done?

Mr. GREEN (Champaign). I never assured the Convention that justice would be done.

Mr. DAVIS (Cook). What did you say?

Mr. GREEN (Champaign). I think the debate has the record, and our recollections won't get us anywhere.

Mr. DAVIS (Cook). Let me read it to you, I have the record here, and will refresh your recollection as to just what you did say.

"Mr. Davis (Cook). Purely on the question of parliamentary procedure, I do not think it is fair in the consideration of the question pending before us, which is the adoption of section five of either majority or minority report, I do not think it is fair that any weight should be given to the suggestion made that section six of the minority report would be so amended as to meet the views of those who have been standing for section five of the majority report."

That is my question.

"Mr. Green (Champaign). I am glad of the suggestion because don't you think necessarily that kind of a suggestion of the fairness of those who contend for this minority report does violence to our high regard for these gentlemen's opinion of our fairness on a proposition upon which we pledge our word. In other words——"

I am reading you, gentlemen, from the official record of this Convention.

"Mr. Davis (Cook). Haven't you personally stated Mr. Green you do not represent the views of the minority, or any one else, but that they are your personal views? I emphasize the fact that it would be unfair in considering section five to state what might happen to section six."

You see, fairness seemed to be the keynote.

"Mr. GREEN (Champaign). I believe you misunderstood me, in stating I do not represent the views of the minority. I say that so far as these observations are made from my personal view point, as far as the amendments are concerned, they are my personal opinions, but I have talked with a number of my colleagues, and some of them go much further than I would be willing to go, but it is not fair to speak of anyone in detail as to what they would do. It is not fair if they insist on calling it a personality, it is not fair to those of us who are trying to prevent a change in this system to impugn a motive of treachery, that by getting by section five adopted we would put on the screws and refuse to show common decency in section six, and yet that is what they have impliedly charged us with. Now they do not mean it."

That is Mr. Green's statement.

"I am sure that the distinguished gentleman who voiced that suggestion will be ashamed of it before the day is over, no matter how the debate goes, because nobody in this Convention is built that way; I know it and he knows it; and I do not believe that he made it in all seriousness."

Then the debate went off on some other matters, and then the question came back later on. Now this is Mr. Green's way:

"Before a motion is made to adopt section six it is apparent to the minds of all of us that there should be an effort to work out a scheme which will be mutually satisfactory to the delegates from Chicago and down State, and to that end I move that the Committee on Judiciary be given further opportunity to try to present an agreed section with respect to that section. The reason for that is, the chairman presiding on this committee has discussed with us"—the committee has discussed—

Mr. GREEN (Champaign). I said the chairman, and not the other members of the committee; that is my recollection; don't garble the record, when you say the committee that is garbling, because it was the chairman; it says the chairman.

Mr. DAVIS (Cook). I apologize; it is the chairman. "The chairman presiding on this committee has discussed with those of us who signed the minority report in a most frank and fair way his willingness to meet on some common ground in the event it was determined to leave the number of the judges the same, and to form a compromise which I believe we already made; in answer to the imputation that we might not do it, I believe we ought to be given that opportunity."

Mr. GREEN (Champaign). All right.

Mr. DAVIS (Cook). This is in the record. You were just a little premature. Now, Mr. Chairman, my effort is ended in calling the attention of the committee to the record of the proceedings of the other day, and to the action of the minority, through the gentleman from Champaign, as it was administered here, only a few minutes ago.

Mr. GREEN (Champaign). Now just this in reply; there has been a steady attempt to construct the remarks which were made in this debate before into a promise. The record has been read and we fail to find anything which undertook to deliver any particular result, except that there be opportunity given to try to work out something. The president presiding over the committee then and myself have had numerous conversations about it, and other members of the committee, and it was supposedly said, nobody was denying anybody else—I am not satisfied yet, Mr. Chairman, and I say it frankly, that this section in its present condition ought finally to be adopted in the Constitution and I have tried, and I don't know why the gentleman sought to put some different construction on it, I tried to make it clear that even yet there ought to be some plan devised perhaps to amend section 42, so that section six would not do violence to the situation, and be nothing more or less than the method of constituting the court until it was changed, but if the responsibility of ultimately phrasing section six and section 42 must fall wholly upon the down State members of the Convention, without affirmative suggestions and help, which seems to be the attitude of the gentleman's reply, from those who are interested in other schemes that have been presented, I fear we may not accomplish as happy a compromise, even, as was already made, or could be had if it were approached in a different spirit. It is necessary that we have a complete judiciary article of some kind. Now with the other question settled as to the size of the court, frankly those of us who constitute what we call a minority of the committee, who re-submit this section to the Convention, feel as long as we do not change the present constitution I don't think we ought to go on with section seven, I do not think it is vital in this judicial article, as long as we do not change the present Constitution by section six, or close the doors to whatever overtures or efforts that may be made to still work out either legislative or constitutional reapportionment. If it is intended to reinsert in the Constitution section six of the present Constitution, in the Committee of the Whole, in order that a complete article may be made, I don't see how it can be made in any other way, in the attitude of mind which these delegates have occupied on other questions.

CHAIRMAN CUTTING. If the committee will pardon the chairman for just one minute, without giving up the chair, I will say that there has been suggested to the gentleman from Champaign and the down State mem-

bers repeatedly the proposition that there should be two at least given to Cook county, or the district in which Cook county is. The difficulty has arisen because nobody down State wants to be the victim. And does not propose to give up its share of any of the justices of the Supreme Court, in order that Cook county may be better represented, but there is the whole difficulty; there is no trouble on our part at all, we simply say, "give us two justices." Where are they to come from? You have limited it to seven; somebody has got to give up one if we get another, and that is exactly where we stop. Anything further to be said?

Mr. GREEN (Champaign). May I make this inquiry of the chair? The real difference of opinion was whether the Constitution itself should give them two judges, or whether the legislature in redistricting will do it?

CHAIRMAN CUTTING. You will pardon the Chair for reply to that in just a word; if the delegation from Cook county, in view of the present arrangement of the legislature, declines respectfully to put its trust in a legislature so constituted.

Mr. TRAUTMANN (St. Clair). If you adopt section 6 as proposed this morning and the legislature acted under section 42, could the legislature do otherwise than continue seven districts, no matter how they redistricted the State?

Mr. GREEN (Champaign). I say if they change the districts and Cook county were not apportioned in the sixth and seventh or coupled up with other districts it would be necessary to change section six. If they adopted this scheme of apportionment by which the territory occupying the seventh district were added to either of these other districts it would not be necessary to change it. If section 42 is not changed, as it was before, it would be necessary, in all probability, to amend section six to conform with it.

Mr. TRAUTMANN (St. Clair). It would be necessary to change section six to divide the counties?

Mr. GREEN (Champaign). Yes, that is the amendment which would have to be made to section 42. That is the kernel of the whole thing.

Mr. MILLER (Cook). All I wish to say is that it is quite apparent that the ingenious as well as the ingenious argument of the gentleman from Champaign brings us back to the same old thing.

CHAIRMAN CUTTING. Anything further to be said?

Mr. DEYOUNG (Cook). In view of what took place a week ago yesterday when we disposed of section five, at least temporarily, of the proposal, by adopting the minority report, limiting the number of justices of the Supreme Court to seven, and the discussion which featured that debate, and particularly by the gentleman from Champaign I was led to believe, and in fact I have a very distinct recollection that with the adoption of section five there would follow, with every assurance that an honorable member of this body could give to another, that there would be provided a section for six supreme judicial districts, and that one district, the one in which the county of Cook is located, would have the opportunity of selecting two justices of the Supreme Court. The Committee on Judiciary Department, to which sections six and seven were re-referred, sought to arrive at some agreement if possible, but the gentleman from Champaign, along with certain other members of the committee, made it very plain to us what we suspected more than a week ago, or a week ago yesterday, that it would be utterly impossible to provide by the Constitution the redistricting of the State into six districts, so the present seventh district could select two justices, because human nature must be quite different in the State of Illinois than it is elsewhere, if we could out of the generosity of the worthy souls of our country brethren ask them to give up one judge of the Supreme Court. We scarcely asked it because we knew we could not expect it, and this minority report only proves exactly what we expected. We knew and we believed at that time, and we now know, that the exigencies of that debate, by holding out, expressly as well as by imputation, the promise of six supreme districts, with a court of seven, so that one district, which has more than half the population of Illinois, might not have equal repre-

sentation scarcely any approximation to it, but might be permitted to elect two judges of the Supreme Court. What do we find now? Now we find that after section five was adopted, it is seriously proposed to adopt section six, and the words "fasten upon the State of Illinois" were used a week ago yesterday, and reiterated and reiterated, "fastening upon Illinois," three judges in the seventh district—let me borrow, if you will, the ominous and persuasive term, "fastening upon Illinois." Fasten upon it, yes, and it is an awful crime, a heinous crime to fasten upon Illinois three judges for over half of her population, one-third of the membership of the Supreme Court of the State of Illinois, but it is an act of kindness, and an act of justice, to fix on Illinois seven supreme districts, the very thing contained in the present Constitution; after our deliberations, to fasten, if you will, upon the seventh district, with more than half the population of the State of Illinois, a single judge. That is not fastening anything upon Cook county. When you are talking about fastening, let us take a complete view of this situation. Why in having a court of nine, and giving more than half the population of this mighty State only a third of the judges on the court of last resort, where is the justice if you will? If you are going to talk about fairness, where is the justice in giving to more than half of the same population of this great commonwealth, one judge out of seven? Gentlemen, has the day come in these councils when we invoke fairness, and practice anything but fairness? If you are determined to have a court of seven, why shall the electors, the citizens of Cook county, of Lake—eliminate Cook if you will—of Will, Kankakee, DuPage, why should these men and these women, with a population of Cook county, why shall they only have one-seventh of the voice in the makeup of that court. You can talk all you want to, and you may insist with all the force and ability that you are capable of, that population and the election of judges have nothing to do with one another, if you insist on that you turn down all of the advances you have made for the election of judges. If one-half of the population of the State of Illinois select but a single judge, and only a single judge of the Supreme Court, then you disfranchise a very considerable part of the State in the election of the judges. If the election of judges by the electors means anything let us be consistent. We are not asking you even to give us that equal degree of fairness and justice to which you have so constantly appealed. No, but we do say, in view of what took place in this chamber a week ago yesterday, in view of the representations that were held out by you that something more would be done, by the very gentlemen and more particularly by the gentleman from Champaign, who resisted with all the force of which he is capable, and than whom none is more forcible in this body against a court of nine members, and who held out to us—because I was very careful and particular in listening to him—representations that something would be at least actually proposed to some members, in the way of a provision by which this district can elect two judges in this Supreme Court. Now we are told this matter may be ultimately disposed of in some other fashion. We feel in view of what took place here last week, and this proposal now to fasten upon us, and I use the word fasten advisedly, because I have my inspiration, fasten upon us, this section six, what reason have we upon second reading or in the future deliberations of this body at any time to assume that our steps will be retraced, if section six goes into the new constitutional draft. When is the time to consider this? Oh, says the same gentleman, you can have legislative reapportionment. There are two objections that are absolutely fatal, and I hope, gentlemen, some of us who come from the Seventh Supreme Judicial District, we may be prejudiced in the extreme, but there are some things so patent that he who runs may see them, and it seems to me that these two objections are so utterly fatal to any such consideration that it cannot have by any member of this body a moment's consideration. Section 42, we repeat, we from Cook county constituting practically half of that committee, we had no objection to your writing into the present draft that apportionment of Supreme Court justices should be by county lines. We know, and we knew

then, we had nearly one-half of the population, yet we were willing to say that all apportionments in the future should be determined by county boundaries. We did not seek to divide up Cook county, so that we could get more than one justice in the future, even if the legislature saw fit to make this reapportionment. We believe—I won't say we believed—but we conceded that advantage to the rest of Illinois, but gentlemen do you think, let us appeal now for just a minute to the sense of fairness; I know you gentlemen are fair, I know you will be in this matter; let us consider this, are you going to write into the new draft of the Constitution Supreme Court districts, and then the limitation that no reapportionment can ever be made which does not respect county boundaries? We put it back in section 42 of the Constitution. We put it there when we drew this draft, originally, which gave three judges out of nine—now, then, you have reduced the number to seven, you have let section 42 stand where it is, and it is proposed seriously to reincorporate in this draft section six, which forevermore says to the seventh district no matter what your population, no matter how rapid you may grow, in numbers, you shall never have more than one-seventh of the supreme judges of Illinois. Now gentlemen what do you think about that? Suppose the situation was reverse—suppose a man came from Southern Illinois, and suppose by some process it was possible to give him just about one-seventh of the representation or a mere fraction of what some other part of the State of Illinois is given, by this Constitution? What would you say of this Constitution, as the day came, as the hour struck, gentlemen, when those who come from Cook county or the north-eastern part of Illinois meet a possible disfranchisement in everything? These things it seems to me are worthy of consideration. Then for the gentlemen to seriously propose that every condition of the reapportionment shall be left to the legislature, to the tender mercy of the legislative branch of this State government, in which the voice of Cook county shall never exceed one-third, and in which the progress in her numbers in the last two generations will be a mere bagatelle compared with what it must be in the possible life of the new Constitution, if adopted, in order to gain an actual ascendancy in the House of Representatives. Oh, yes, these are pleasant considerations, and worthy it seems to me of men who proclaim fairness to put in practice, but who, in practice, I am afraid, are not altogether following what they proclaim. Ah, but it is suggested that section 42 may in the distant future be amended. It was actually proposed to me this morning that section 42 be amended by striking out county lines, and making the reapportionment dependent on population and area. Where is there any constitutional provision, which sponsors that, with which they are acquainted? Where do they find any such provision that area in express terms shall be one of the two determining factors in the election or selection of justices of the Supreme Court? I thought that we had discussed that matter last week. Gentlemen, we from Cook county are not altogether unmindful of some of the things that have occurred in the past in our own State, as well as on this side of the Atlantic Ocean. We are not altogether unacquainted with some of the things for which men stood, and that there is no race of men anywhere that throw away all considerations of expediency at times—yea often—there is no race of men that have stood in the forefront more than the men of America. Do you expect men of one of her foremost commonwealths, one that has taught the world some of the very best lessons of liberty, do you expect one-half of the population of such a race of men to say that population and area shall be the determining factors—in other words, are you going to add, to be perfectly plain, to the gross injustice of last week? I indulge in no weasel words; the time is past when anything of that kind should be resorted to in this body. Let us call these things by their proper names. The decision of last week, supplemented by the present proposal, to give one-half the population of Illinois one-seventh of a voice on the Supreme Court is grossly unjust, it is not fair, it will not appeal to the man in Galena or Cairo when he stops to consider carefully any more than it does to the man in Kankakee, Waukegan or Chicago. And then to say in this great State, where area is a very uncommon matter

in the distribution of population, because in the one corner of the State you have more than half the population, to say that section 42 shall be amended by determining the apportionment for Supreme Court justices upon the basis of areas as well as population, it seems to me, to speak plainly, to add nothing short of insult to injury. Now gentlemen, we are not asking for much, is there any man on this floor anywhere that can say for a moment we are unfair? When we say to you if you are going to have seven districts, these five counties in the northeastern part of the State ask for only two representatives on that court, is that unfair? Is there any man here who can say that that is unfair? Is it right that we shall now write section six into this Constitution, and leave section 42 as it is, or change it as they propose? It does not alter the consideration at all. What can we expect with such a condition of things? Gentlemen, it seems to me the time has come when if we are going to have this fairness about which so much has been said; this justice which has been so often reiterated, don't you think the time has come and the hour is here now, for a little concrete evidence of that consideration in the distribution or apportionment of the selection of Supreme Court justices? Mr. Chairman and gentlemen of the committee, I am convinced that the minority report should be defeated.

Mr. WOODWARD (LaSalle). I move that the committee take a recess until three o'clock this afternoon. I make that motion for the reason that the Committee on Phraseology and Style desires to have a meeting at as early a time as possible in order that it may formulate and present today to the Convention at least three if not more reports. If the committee can have that time, until three o'clock, it assures me that it can accomplish that purpose. I therefore request that the committee recess until three o'clock.

(Adopted.)

Whereupon an adjournment was taken to three o'clock Wednesday, December 8, 1920.

3:00 O'CLOCK P. M.

Committee of the Whole resumed pursuant to recess.

CHAIRMAN CUTTING. The time to which the committee recessed has arrived. The committee will be in order.

Mr. GREEN (Champaign). Mr. Chairman, on this proposition there seems to have developed an element of personality that involves the good faith of the personal declarations of the respective delegates, or some of them, that have talked about it. Portions of the record were read this morning that contained my remarks on a former debate on this subject. There is not a thing in those remarks that were read that I have to take back. There may be other things in the record that I may have said that I would want to modify on mature reflection, but there has not been anything of that kind read. I do think that there should be evolved some scheme by which the efficiency of this court, preserved at its present number, would allow, not only allow but compel a better representation by the district that is here complaining.

It has been asserted that some of the delegates voted for this proposal, section 5, under a misapprehension, and it therefore seems to me fair to take a moment to review what the issue was and is now before this Convention under these propositions and in that debate. Now, none of us have any pride of opinion that ought not to bow to the will of 52 members of this Convention, but I am sure that upon reflection there is not a delegate in this Convention whose mind would not revolt against the idea of the scheme which was submitted by the majority report, that put an undue control of the court arbitrarily at one place, and I would make the same argument against the former court of North Dakota as I would against a court in Illinois made up from one corner of the State. It is the wrong principle for the Supreme Court. It has no application to the *nisi prius* courts who are elected among the people. Therefore, all that was said in the previous debate must be considered with reference to its application to that issue. We were presented with a scheme which vested in one par-

ticular part of the State an undue control over not the judicial forum that comprised the people's rights at *nisi prius*, but over the Supreme Court of the State possessing appellate jurisdiction, announcing rules of substantive law, which is the guide and precedent for all the courts of the State, and therefore ought never be dominated by any one interest.

Now, then, at the same time I said then and I say now that it does not seem right that some consideration should not be given to the element of population, and that one judge on this same circuit, from that portion of the State which has over half the population of the State, does not accord with that sense of fairness that I believe ought to control the delegates to this Convention. Therefore, the first thing to settle was the question of the number of judges of the court, preserving its efficiency and remembering that we had to look ahead to sections 6 and 7 to see how it was going to work out. In order that my own position before the committee and the Convention may be made absolutely clear and that any charge that there was a subtle motive of taking advantage of some preliminary vote to preserve a situation that was at that time conceded to be not altogether fair, it seems to me that it is proper that we submit affirmatively some scheme for the consideration of the committee which would relieve against that embarrassing, unjust and unfounded assertion, and to that end, Mr. Chairman, I have prepared and now desire to have appear in the record, with notice that I will offer this upon opportunity, when it is in order before the committee as an amendment to section 42 of this article, a plan which will obviate the unfairness and will preserve the principles for which we so strongly contended the other day, and I have not had opportunity to consult and advise with very many of my colleagues about this scheme, and I don't know how many of them will agree with it, but I here say now that I will support any plan which they can agree upon or which the majority of the committee can agree upon, or which might be presented by any other delegate that more nearly meets the situation than this one. I don't think that it is up to those of us who defended the minority report to submit those additional plans, but we ought not to be so small as to stand on technicalities or ceremonies, and regardless of which side it ought to come from, it won't do anybody any harm to express a personal opinion about what will give expression to his sincerity in his position.

In my judgment, this plan, by having referred back to this committee from the Convention section 42, and then amending that section in the particulars to which I will address myself, would solve the difficulty; and maybe somebody has a better plan, but this record is not going to be left in the position of assertion that at any rate I have not done something to furnish an opportunity for discussion upon some plan that will evidence good faith in the debate. If we take section 42, it would be my suggestion that we let it read just as it does down to the word "permit" in line six. Then it would read this way:

"The boundaries of the districts for the election of justices of the Supreme Court and the boundaries of the Appellate Court districts may be changed by the General Assembly, but such alteration shall only be made as nearly as county boundaries will allow upon the basis of equality of population, and the districts shall be composed of contiguous counties in as nearly compact form as circumstances will permit." Now, that is the general principle. Then add:

"But the territory now constituting the County of Cook shall be divided so that it will then constitute a part or the whole of two of the several Supreme Judicial districts. In the event the General Assembly shall fail to redistrict the State in Supreme Judicial districts as provided in this section prior to or during the year 1925, it shall become the duty of the Governor, the Secretary of State and the State Treasurer then in office to proceed to redistrict the State as required by this section, and file a report of their action in the premises in the office of the Secretary of State not later than May 1, 1926." Then concluding as did the section before:

"All alterations of the districts shall not affect the tenure of office of any justice of the Supreme Court, or judge of the Appellate Court."

Now, Mr. Chairman, it has also been suggested that a better plan would be to break the redistricting of the State into six districts, and that the territory of which Cook county was a part be allowed to elect two judges. With that I personally have no quarrel if the delegates from Cook county prefer it that way, and I have been advised since I submitted this to some of them that they do prefer this latter scheme, but it was framed in the form in which I read it because I understood that it was preferable that the County of Cook be divided, and that outside territory be attached as a part of the same district in which each of the two parts of Cook county lie, and then there would be a prohibition against the election of two judges in all probability from within the city, or that it might be so done that the great portion of the county districts and the suburban portion of the State be one district, and the congested portion another in which that result could be achieved.

It is absolutely immaterial which way it be done, so far as I am personally concerned, but the debate this morning by the gentleman from Cook insinuating that no possible plan could be devised by which this court could be held at seven justices and we could obviate the misfortune of having a great dominant part of the court coming from one particular part of the county, of the State, as the majority report required, seems to me to justify these suggestions. No, section 6 as it is presented now in the minority report, if this section 42 were amended as I have outlined, section six as it now exists in the Constitution would not have to be changed, because until the State is redistricted, the districts would remain as they now are, and one judge would forever be elected from each district even after the redistricting.

It would not be in order, I understand, for me to offer this amendment to section 42 in this committee, and as that section is not before us and because the order of business is section 6; but it will be perfectly satisfactory to make section 42 as amended in this way part of section 6, have it all adopted together, or the language modified to suit some other scheme if one be presented; but, gentlemen of the committee, the controlling and the dominating and the persuasive principle for which the minority of this committee contended is not the small matter of how the State be redistricted, but it is the big question of not putting the dominant part of the court in one county, which no doubt with the adjacent congested population would soon have a majority, if not in number of the court, and against diminishing the efficiency of the court and interfering with the established order of things, in the absence of any showing that there is any necessity for increasing its size.

CHAIRMAN CUTTING. What further is your pleasure, gentlemen? The question before the house is the adoption of section six of the minority report.

Mr. DEYOUNG (Cook). Mr. Chairman and gentlemen of the committee, I do not want to impose upon your good nature, nor take any more of your time to discuss what seems to me to be so obvious a proposition as this. The gentleman from Champaign, with an insistence that well becomes a successful member of the bar, has repeated in this discussion, as he did last week, that the so-called majority report fixed an undue control of the court, referring to the Supreme Court, arbitrarily in one place. It is not only stated once, not only repeated for the purpose of emphasis, but it is repeated almost well nigh unto exhaustion, because what it lacks of truth and exactness, he probably thinks will be made up by constant repetition. That was the opening statement and the concluding one was the same thing stated perhaps a little differently. Here it is: "The matter of how the judges or the districts from which they come is a small matter, but the dominant, the controlling question, is that the majority report, providing for nine judges, and the dominant part of the court in one county." A court of nine members, three of them to be elected from one district composed of five counties.

Mr. GREEN (Champaign). Five counties?

Mr. DEYOUNG (Cook). Yes, five counties.

Mr. GREEN (Champaign). The report says one county.

Mr. DEYOUNG (Cook). I am talking about the majority report which provided for five counties, left them in one supreme judicial district, just as has been the practice from the year 1870 down to the present day; a dominant control of a court of nine members is vested in three members, a third of the court. In other words, according to the modern arithmetic which emanates from the gentleman from Champaign all text books from the primary grades up will have to be revised. We have it now that one-third is a dominant portion of nine, and it is repeated over and over again. I just wonder whether the gentleman thinks that the constant repetition and assertion that three judges that may come from one district of five counties will dominate that court? There certainly must be something wrong with the other six members coming from the rest of Illinois if that is possible. Now, how is it possible that judges that will come from the seventh Supreme Judicial district—and look over the district; I couldn't mention them all, but who are they? Have they been supermen? They have been men that have been an ornament to that bench, just as judges from other parts of Illinois. Is not one of the great names in the judicial annals of Illinois the name of McAllister, who came from Chicago? Was there anything radical or extreme or anything in his utterances as a judge that subverted the law or jurisprudence of this State? Never asserted, never even attempted; recognized by men from every part of Illinois as one of the great names in our judicial history. What is true now, what has been true in recent years? The idea of saying that three judges coming from Cook county will dominate the Supreme Court. Why, I confess my utter incapacity and utter inability to have anything like that percolate through my brain, three would dominate nine. We had it a week ago yesterday, and we had it repeated and repeated and repeated again now, three out of nine dominating a court, fastened beyond peradventure by this proposal upon the good people of Illinois. That was the argument a week ago.

Isn't it possible that the men from Will and Kankakee and DuPage and Lake counties as well as Cook might complain also that by the same scheme which provided for nine judges there was fastened against them, of which they did not complain, two-thirds of the court against a majority of the population of Illinois, which promises to be an increasing majority? It is now a majority, and the protection will probably grow more rapidly; that is your admission, that is the contention of some of you, that in that part of the State the population will grow more rapidly than in all of the rest of the State combined. If that is so, then you have actually fastened by this iniquitous majority report—we have had a majority of the State fastened as against it, not a bare majority but two-thirds of a court, and you talk about domination. Why, it strikes me that six out of nine can dominate a court. We need only five for a decision. Is it at all to be supposed that three men from Cook county or from the seventh district who may come from the other more sparsely settled portions of that district, who might find their way to the Supreme bench—the present incumbent from the seventh district does not reside in Chicago; he lives in the country part of Cook county, if you are speaking generally, outside of Chicago at least. Now, why all this talk about dominating the Supreme Court of Illinois? Is it possible that the interests—when I speak of the interests—the matters involved in causes that may arise or that go from that district to the Supreme Court of Illinois, now and for years past, actually constituting the bulk of the business of that court—is it possible that these three men if they come from that district can dominate the court, or that they could, lacking the numbers and outvoted two to one—I am not complaining about it, but when you talk about domination, it seems to me we ought to urge with the same insistence that three cannot dominate nine, or one-third dominate two-thirds. I wonder what would be said if the reverse were true? We would never hear the end of domination? If the actual majority had five out of nine members, why, this building would crumble into dust before the last echo of domination were heard. Yes, talk about domination with one-third as against two-thirds.

Let us look at it a little farther: The scheme of the majority report, the language which vested in one-third, or one part of the State undue control, which can dominate and represents one interest, the City of Chicago, the County of Cook and the surrounding counties—no clime not witness to their toils, no sea not vexed by the commerce of that city and the territory around it, and speak of one interest, one industry as dominating that court. I cannot. A week ago we heard about the poor man in his cottage who must determine the principle that applies to the man in the ten story building. I grant that legal principles are not determined where the same question is involved by whether a structure necessarily may be one or ten stories high, but I do say that the man who may find himself in the ten story building at least ought to have some voice in the determination of the principles that shall guide in the adjudication of these causes.

Talk about dominating the State of Illinois by three judges coming from the County of Cook and the other four counties. Now, gentlemen, we are not asking you to have the same representation in the Supreme Court at all. We have complained about the assurances which we were convinced, which we knew were given us a week ago, that with a court of seven judges, we, an actual majority of the Illinois population, with more than a majority of the causes that reach the Supreme Court, we believed and we are still of the opinion and conviction that we ought to have more than one out of seven judges. We knew the practical difficulty which these gentlemen would encounter if they sought to take one of these judges out of the rest of Illinois. We knew that there would be practical difficulties which would be insuperable, and the event has proven that fact.

Now, while section 42 is not now up for consideration, let us see what relief is offered us. Let us see if this is a solution of the problem. This matter has been presented, and for that reason I desire just to address myself to it for a moment. Section 42, which—not the scheme, because there wasn't anything in the way of a scheme; let me tell you, gentlemen, that of all the proposals that were introduced in the Convention, referred to the Committee on Judicial Department, all of them with possibly one exception—and I am not certain about that—but every one, one and all alike, provided for a court of nine members. These did not emanate from the seventh district. There were several introduced by members from the State of Illinois outside of Cook county, from north, from south, from east, from west they came, every one, not from Cook county. Everybody seemed to be of one opinion, that in these days Illinois would have and should have a Supreme Court of nine members.

Now what is proposed? We hear something about the lack of efficiency. Why, that is another strange sound. It is not for me to say. I have never had the honor even to be a member of any court anywhere, but members of the bar do have the opportunity to make some observations, and if the increase in the number to nine is such a loss of efficiency, it is very strange that it would not have been discovered at the seat of national government, a court that has even more important matters, of great reach and greater extent to determine, because they are even, as we observed before, I think, in last week's debates, not only the controversies between individuals, most times between individuals of different states, but even sovereign states of the nation itself, and beyond that in the interpretations of treaties between sovereign nations of the wide world. This is a court consisting of nine members, and I have yet to hear there is a loss of efficiency because the number is there more by two than in our own Supreme Court.

But apart from that, what is proposed here? Section 42, which was put into the report, which is now characterized as a scheme—when a majority of the population of this State asks not for half but for a third—that is a scheme, and then in section 42, knowing that Cook county had nearly half the population of Illinois, we still said that in the apportionment county lines would have to be observed. Is there anything unfair emanating at least from some members of the committee who reside in Cook county? Is there anything unfair about that, anything grasping, anything dominating?

What is proposed. This is held out as a largeness, a generosity, a magnanimity that is almost without precedent in this body. What is it that we have here?

"The territory now constituting Cook county shall be divided so that it will then constitute a part or the whole of two of seven Supreme Judicial districts." Here is the option, to make it a part of two districts. Now, gentlemen, my experience in matters political is so brief as to be almost nil, but even in that very brief period I am very much constrained to think that Thomas Jefferson was right—and perhaps I ought to exclude the judiciary, I certainly don't mean any personal application, but when he observed more than a century ago that of men in public office few die and none resign, the statement was probably a little exaggerated, but do you think with a tenacity here laudable, that we have observed not in this body but in this hall, I will say, do you think that it is possible that in the present state of perfection of human nature that we can expect that if Cook county is to be divided up at all, it will become anything more than parts of two Supreme judicial districts? It will be the appendage to two Supreme judicial districts, and there will continue to be seven.

Now, let us look at it just practically, and tell me if this as a practical proposition means anything? We are to be made a part, even the whole, of two Supreme judicial districts, and this depends, first, upon the will of the legislature, in which, of course, Cook county will have such a generous representation that she, too, with a minority can actually dominate that body. Why, gentlemen, I never knew until these latter days that these men who come from Cook county, actually fewer in numbers, could so dominate the rest of the State. I did not know that their endowments were so considerable that the majority in numbers from other portions of the State of Illinois, must naturally give up to them. It is very re-assuring indeed. I don't know whether it is the salubrity of our climate in Cook county, or whether it is the purity of the drinking water and the people up there, or perhaps the grandeur of the scenery, but there is something that makes men who come from Cook county, although fewer in numbers, actually dominate the majority. I have been told that the Dutch general before the Battle of Waterloo—I don't remember the number of soldiers that he had, but it was under 300, as I recollect it—and here were the mighty French forces, and the Dutch general took his band of men and marched them in and out of the woods, and there never was an end to it, and the French general thought that this small band of Dutchmen was such a considerable army that he did not go on to the attack.

And, strange to say, the three men on the Supreme Court of Illinois, those three men must be such supermen, the men of the future, must be so capable of dominating the other six—and, mind you, when our few men in the legislature, in the Senate, shall be one-third in number, who may be expelled by the other two-thirds, if you will, a possibility indeed—and we must only grow two millions more before we can have equal representation in the house—our fewer numbers will actually dominate the legislative branch of Illinois government, and they will apportion Cook county in such a way that she is going to have two members of the Supreme Court out of seven.

Oh, a happy day; happy days are dawning for us under this proposal. Yes, I am not initiated to its mysteries and its beauties. I fail to discover it, and perhaps I shall have to have a course of treatment before I can fully understand all that this holds for us in the days to come. Surely the amendment to section 42 as here contemplated solves all our ills. We of Cook county in the seventh Supreme Judicial district shall go forth with joy and say surely we are going to get judges on the Supreme Court. We know that the rest of Illinois will not give up any one of her five or six, but somehow, by some possible means, with six judges to the rest of the State we are going to get two. Yes, indeed, a very happy solution.

Mr. JARMAN (Schuyler). Mr. DeYoung, are you satisfied with a plan which would give you two judges absolutely to Cook county?

Mr. DEYOUNG (Cook). Speaking for myself, yes, if you put it into the Constitution.

Mr. GREEN (Champaign). Mr. Chairman, I desire to offer this amendment to section 6, in order that this matter might be presented.

Mr. DEYOUNG (Cook). I am not speaking for the rest, because I have not consulted them.

Mr. GREEN (Champaign). I will have it here in a moment, but I will have to read it now. I move to amend section 6 of this proposal number 384 by adding at the end thereof the following:

"The boundaries of the district for the election of justices of the Supreme Court and the boundaries of the Appellate Court districts may be changed by the General Assembly, but such alteration shall only be made as nearly as county boundaries will allow upon the basis of equality of population, and the districts shall be composed of contiguous counties in as nearly compact form as circumstances will permit. But the territory now constituting the County of Cook shall be divided so that it will then constitute a part or the whole of two of the seven Supreme judicial districts. In the event the General Assembly shall fail to redistrict the State in Supreme judicial districts as provided in this section prior to or during the year 1925, it shall become the duty of the Governor, the Secretary of State and the State Treasurer then in office to proceed to redistrict the State as required by this section, and file a report of their action in the premises in the office of the Secretary of State not later than May 1, 1926. The alterations of the districts shall not affect the tenure of office of any justice of the Supreme Court or judge of the Appellate Court."

Mr. HAMILL (Cook). Will the gentleman from Champaign yield to a question?

Mr. GREEN (Champaign). Surely.

Mr. HAMILL (Cook). Would it be possible under that device for the General Assembly to take a small corner of Cook county and add to it a number of adjacent counties and make it another district, and take the balance of Cook county and make it a district?

Mr. GREEN (Champaign). Yes, it would, and that was one of the objections when I talked about it informally in the committee, that some of the Chicago members on the committee made to it. They wanted, contrary to the argument that has just been made by the chairman of the committee—these other members of the committee wanted it so provided that Cook county should be somewhat equally divided between two districts, while other members of the committee wanted that Cook county should be entirely in one district. And I have no pride of opinion either way, but it was then the opinion among the Chicago delegates today.

Mr. DEYOUNG (Cook). Mr. Chairman, there is one more point I wanted to make. There is no change made in what you just read, from the proposal which was handed to me.

Mr. GREEN (Champaign). It was the same thing. You see, I could not offer it as an amendment and get it before the house, so I offered that as an amendment to section 6, in the same language in which we have it.

Mr. DEYOUNG (Cook). I thought you had made some change.

Mr. GREEN (Champaign). No.

Mr. DEYOUNG (Cook). Very well. Here is my difficulty, even assuming everything else were satisfactory. If the legislature fails, you put this in here to compel certain executive officers to do this.

Mr. GREEN (Champaign). Yes.

Mr. DEYOUNG (Cook). All right. We are in the same situation then as the relator was in the case of *People ex rel. Dunne vs. Miller*, and so on, in which they sought to compel the canvassing board to reassemble, to declare a certain result to a seat in this house. You know what the Supreme Court said?

Mr. GREEN (Champaign). I don't think that is parallel at all.

Mr. DEYOUNG (Cook). Oh, just a moment. The Supreme Court held there that these three executive officers could not be compelled by mandamus to do that thing.

Mr. GREEN (Champaign). Pardon me. If it were not in your Constitution, I don't think you could myself, but when you put it in the Constitution, do you mean to say the Supreme Court would hold that when they accept the office under this constitutional mandate they would not have to carry it out?

Mr. DEYOUNG (Cook). I will say that the Governor cannot be mandamus in the performance of his constitutional duties.

Mr. CUTTING (Cook). The legislature is in the Constitution. You cannot mandamus them.

Mr. DEYOUNG (Cook). Certainly, but an executive officer—it has been held that the Governor of this State cannot be compelled by mandamus to do that thing which is plainly his duty. To remit this matter to the legislature or to certain executive officers, I don't care what you put in here, is certainly no solution of the situation. Anybody can see that.

CHAIRMAN CUTTING. The gentleman from Champaign offers an amendment to section 6, which has been read. The question is upon the adoption of the amendment.

Mr. DAVIS (Cook). Mr. Chairman, the amendment offered to section 6, and section 6 itself, is now before the Convention in keeping with the provisions of section 5. It is not my purpose to make any further reference to the record. I accept the apology from the gentleman of Champaign, and am willing to close the incident. The fact remains that after this morning's adjournment a number of delegates from down the State came to me and said that their action on section 5 was prompted by the suggestion that such changes will be made in sections 6 and 42 and other sections, which would obviate the objections which were then urged when they voted for the minority report in place of the majority report.

I do believe after all arguments are made that the action to pursue at this time is to try the case de novo without any reference to any other sections, and let the voice of this committee be heard in this convention on the main question whether the Supreme Court shall consist of seven or of nine members, and the reason why I think the question ought to be tried anew is that I have heard it said on all sides that it is absolutely impossible, through any compromises or any negotiations, to find the particular spot in the State of Illinois which will be willing to give up a district and give up one judge in order that the seventh district should have something resembling its proper representation on that court. That has been said to me as a statement of fact. The scheme suggested by the gentleman from Champaign will not work, as has been pointed out by the gentlemen from Cook. He passes the buck to the legislature, knowing in advance that the legislature is not going into it and cannot do it because of the opposition that it will meet, and which will be even stronger than the opposition which we are meeting when we try to do away with a judicial district, and then meet the further objection from the Supreme Court of our State itself that a mandamus will not lie to compel a State officer to do his duty, whether it is constitutional or legislative. So that we must face and meet the situation. Now, this Committee of the Whole has presented its report to the Convention and the Convention has accepted the report. The only open course at this time is for the committee to rise, for the Convention to reassemble, and before the Convention itself to make the motion that more than one member is inclined to make—and at least seven of them have told me that they would take pride in presenting a motion to reconsider the action of the Convention which acquiesced in the report of the Committee of the Whole when it adopted section 5, and when we do that, the question will be squarely presented whether or not we can get out of this difficulty by adopting the view of the majority and having a Supreme Court consisting of nine judges, so that all the other six districts would remain undisturbed; the seventh district with its five counties can then be given the three judges to make up the total of nine. And with this explanation, and with the reason given, I now move, Mr. Chairman, that the committee rise, report progress and ask leave to sit again.

(Motion carried.)

CHAIRMAN CUTTING. The motion is carried. The committee will rise and report progress.

Mr. CUTTING (Cook). Mr. President, the chairman of the Committee of the Whole begs leave to report that the committee has arisen, reports progress, and asks leave to sit again.

(Report adopted.)

THE PRESIDENT. This closes the hearing of matters on the general orders until the Convention reconvenes.

Mr. CUTTING (Cook). Mr. President, a number of things have been concluded, but that was not the motion that was put last. There are still matters unconcluded before the committee. Sections 6 and 7 of the committee's report on judicial department have not been disposed of, and for that reason the committee asks leave to sit again; but as to sections 33 and 47 of the original report, which have been passed as amended, and the committee reports and recommends that they be made a part of the Constitution. Also two new sections have been added, to be known as sections 38 and 48, new sections.

THE PRESIDENT. And the committee also reports that sections 33 and 47 of the original report have been adopted by the Committee of the Whole as amended, and that two new sections, namely, sections 38 and 46, have been added to the report, and the committee recommends that the sections 33 and 47, as amended, and new sections 38 and 46, be adopted and the question is upon the adoption of that report.

(Report adopted.)

Mr. MOORE (Macon). Mr. Chairman, I voted in favor of seven judges with the understanding and belief that there was to be provision made for the seventh district, which contains sometimes over a hundred thousand more than half the population of the State of Illinois, to have two judges. I therefore move that the Convention reconsider its vote by which it adopted the report accepting section 5 of this report.

THE PRESIDENT. The motion is that the Convention reconsider its vote by which section 5 of the report of the Committee on Judicial Department was adopted, was concurred in by the Convention, and the question is upon the adoption of that motion. Are there any remarks?

Mr. GREEN (Champaign). Mr. Chairman, I desire to oppose this motion to reconsider section 5. I am not going to debate it long. The reconsideration of section 5 simply means this: After a long and tedious debate, that question was settled. Those who resisted the adoption of section 5 by obstinately refusing to present any plan at all by which they could receive the benefit of the suggestions that perhaps two judges should come from one district, by finding objections to every plan that was presented by the other members of the committee, finally induced the Committee of the Whole or the Convention to believe that it is impossible to accomplish that purpose, and it is simply expressed in the sentiment if "I cannot have my way, I won't play." That is all it means. That issue was settled, and there was pending before this Committee of the Whole, in an effort to work something out, a particular plan had been offered furnishing two judges to Cook county in obedience to the request of some members of the committee that whatever arrangement was made in that direction Cook county itself should be divided and other arguments were made that it was a crime to divide Cook county. Then the suggestion was offered that it might be amended to put them all in Cook county any way they say fit, and other people objected to that. They settled this question as to the number of the court, and the only question remaining to be considered is that reapportionment, how they reapportion over the State. It is not right to thrash that matter back in the Convention again, and this whole purpose is to overcome the vote which was taken, by which it was adopted after a bitter debate because those who were unsuccessful have refused to help work out a plan to make it function.

Mr. TRAUTMANN (St. Clair). Mr. President, I cannot agree with the gentleman from Champaign on the question as to whether or not section 5

has been settled. I take it that no question has been settled simply because we took a vote on it at first reading or in the Committee of the Whole the first time it was there. After further consideration and deliberation we might conclude as a Convention that a question was not settled right. Personally, I do not believe that section 5, if it was settled, was settled right. Now, it seems to me that this is the proper time to reconsider section 5 and not let the matter go over until it comes up on second reading, as it surely will. Personally, I believe that on account of the situation that we have discussed, and that we find in Illinois, that we should have nine judges on the Supreme bench, and I am convinced that three of those judges should come from the seventh judicial district.

You have been attempting here for the last two or three days to work out a scheme and a plan upon the proposition of seven judges instead of nine, and we don't seem to get along very well with that scheme or that plan. We do not seem to be able to work it out, but I do believe that we could work it out to the satisfaction of the gentlemen from Cook if we had nine judges, and those three judges, as has been stated by the gentleman from Cook, the chairman of this judicial department committee, would come from five counties, and not from one, and I think that this Constitution should say how many judges should come from that territory. If this document leaves it to the General Assemblies of the future to say how many members should come from the County of Cook, none of us will live long enough to see Cook county get more than one member on the Supreme bench.

I have found that the members of the General Assembly are not different than other men, and I take it they will not be much different in the future, even though women may be in the General Assembly; and I find that the membership of those bodies are not different than the membership of this Convention, and you will find that the three State officers that have been mentioned by the gentleman from Champaign in his amendment, will not be different than members of the General Assembly when it comes to apportionment. Men that seem to be ordinarily fair in the ordinary walks of life seem to be very unfair when you come to matters of apportionment, because you cannot pass any apportionment bill as a rule, but what it seems to affect directly the men that are passing it.

Now, I have had a little experience in apportionment measures in the General Assembly, both legislative and judicial. Way back in 1897 was the last time that the General Assembly passed a judicial apportionment bill, and when they did that, they did not place in the County of Cook but in the territory that the gentleman from Bond and myself come from, in the first, second, third and fourth judicial districts they put 37 counties, and there are still 37 in those four judicial districts; and I find that the third, which has the large counties of St. Clair and Madison, has seven counties with about 350,000 inhabitants, and I find some of the districts or circuits in Illinois that have three counties; for instance, Will, Kankakee and Iroquois. I find another one, the thirteenth, Bureau, LaSalle and Grundy, and others with four, quite a few of them with five, but when you get down in Southern Illinois we find one with twelve, two of them with nine, and one with seven.

Now, there have been several opportunities under the Constitution to reapportion the State since then, in 1903, 1909 and 1915. I was in the General Assembly in 1903 and we offered an apportionment bill to reapportion the State judicially for circuit judges. We could not get enough votes because nobody in particular was complaining except Southern Illinois, these four circuits. We came back here in 1909 and asked the General Assembly to reapportion the State and the gentlemen from central and northern Illinois said "we don't need an apportionment, we have got from three to five counties, we are getting along very well and the judges can handle the business" and we didn't get it. We came here in 1915 and asked the General Assembly not to reapportion the State, but to provide for four judges, from each circuit, as they can do under the Constitution. They even refused to give us that. We submitted a proposition to them in 1909 that they take

the four circuits in Southern Illinois and make seven out of them, and they refused to do that, not attempting to disturb any of the other circuits; and I am simply giving these illustrations to you to show you that they don't do it. We have had the seventh judicial district of Illinois for fifty years and the General Assembly has not changed it, although it has more than half of the population. In 1911 and ever since then the General Assembly under the Constitution should have reapportioned this State senatorially. They haven't done it. Why? Simply because you would have to take other members from down State and give them to Cook county, that is one reason. The second reason was that they were anticipating a Constitutional Convention and they did not propose to lose any more members from Southern Illinois in that Constitutional Convention.

Now then, if you leave this question to the General Assemblies of the future, I am here to tell you that Cook county will never get another judge on the Supreme bench of Illinois, and personally I am in favor of over half of the people in northeastern Illinois having more than one man on the bench. I don't think it is fair or right that the district represented by Justice Carter should have 132,000 more people than all the other six districts combined when it is growing three times as fast as the rest of them combined. Therefore, I am in favor of fixing in this Constitution the number of judges that this Convention thinks that territory should have, and for that reason, in view of the fact that it seems to be impossible to redistrict this State and give Cook county or that territory two judges because the down State do not seem to want to give up one, and if that is the trouble, and if that is the difficulty, then I think the only alternative before this Convention is to reconsider section 5 and give this Convention another opportunity to vote upon the question as to whether or not there should be nine or seven members on the Supreme bench and if you have nine, then it seems to me there will be no difficulty in giving Cook county what they are at least half entitled to without taking any away from the citizens down State.

Mr. MACK (Hancock). Mr. Chairman, allow me to first preface the remark which I make by the suggestion that for the eminent member who moved this reconsideration I have the most profound respect. I have also no questions at all, Mr. Chairman, that that member in moving that motion was honestly impressed with the idea that he had voted for the other motion upon the theory that an adjustment would be made in some manner by which Cook county at least would obtain another judge. I make these remarks in opening because I do not want it understood for a moment that I want to raise any question as to the purity or magnanimous motive of the gentleman who made that suggestion. Now, having laid that proposition down, I want to say to the gentlemen of this Convention that there are some things that I must say to this Convention, and which I think I should have said before, and which I want to say now.

In the first place, I want to make the suggestion that in this Convention, and lay this down as a premise which I have always done before—that it is my profound conviction that so far from impugning the motives or other purpose in obtaining any action in this convention, I am satisfied that every man has been moved and is moved by the highest motives and there has been no disposition upon the part of any one to take any advantage in any action that has been taken. If, Mr. Chairman, I had any question at all in this Convention that any matters as important and as serious as those that have been before this house for the past week, there was any doubt that any member after the oath he had taken would come in here and in any manner whatever vary from what he believed to be his honest, conscientious duty, I would not want to mingle with this Convention even with that one man out of the 99 remaining members, three of whom have been removed by death; I would not want to stay here a minute. Now, having laid that down as a premise, and having placed myself upon the solid ground of the equality and integrity in motive, in desire and wish of every man in this Convention, and expressing not only to the members down State but to you gentlemen from Cook county the most absolute, sound

conviction in your motives and purposes, I want to say, Mr. Chairman, that the first thing I want to lay down is that there is no question in the world that when the gentleman from Champaign county the other day in the magnificent presentation he made of this matter to this house, a member held in the most profound respect of all this house, said to this house that there was a possibility that this matter might be adjusted before this committee, I want to say to you gentlemen here that no man can stand in my presence, either from Cook county or otherwise, and for one moment insist that there is any question about his integrity of purpose. I don't think that any man could possibly have that idea.

I want to add, gentlemen, that I am a member of that committee. I have been on that committee in its arduous days, one of the most arduous committees in this whole Convention since the 6th day of January last, and have attended practically all of its meetings. I watched the movements of that committee, and when we went out of this Convention and out of this committee after the action taken the other day, I want to say to you in behalf of the gentleman from Champaign county, that everything that he could do and every effort he could make to bring about some adjustment in this matter was made, and that he failed to accomplish that, but the time allowed was too short. But it is my profound conviction, gentlemen, that if this motion is voted down, which it should be, and this matter sent back to this committee, that the honest endeavor he has met will be continued and the assistance he has received from other sources, will develop good results, and that for no other reason—and that is one of the list of reasons—this motion should be voted down because I am profoundly convinced of the fact that the gentleman, with the suggestions made by him and the other members on that committee, especially down State members, will do everything in their power to bring about a condition by which Cook county may have not three members, but two members, and these gentlemen have said to you that these two members are satisfactory to them.

But now, gentlemen, to get right down to the matter which has been revealed to you by the conduct of the members, and more than one of them upon the floor this afternoon, that they are not desirous of getting together and trying to compromise this matter; and when this suggestion was made by the gentleman from Champaign county and he said that he was perfectly willing that that be carried back to the committee, and moved this as an amendment, these gentlemen insisted that there were all sorts of difficulties—I suggest to you gentlemen that this committee went through all the devious ways of the framing of a judiciary proposition, and they were able to bring one before you that was so nearly accurate, that the Convention, composed of a very large number of lawyers, except this one matter which is now in controversy, practically accepted that, and if I do say it, as a member of this Convention, it went out and was approved by the judiciary of Illinois and the members of the bar of Illinois; and I want to say just this one thing in behalf of the members of that committee who labored so hard for harmony and peace, I believe we have a right to ask, first, that it be voted down. Then when you have done that, then refer back to the committee sections 6 and 7 and 42, if necessary, with the amendment suggested by the gentleman from Champaign and let the matter there be worked out.

I want to say to you, gentlemen, that I believe if we reconsider this matter now and place back before this Convention again the question of seven, eight or nine judges, would be a most profound thing, would be the thing that this Convention does not want done at all, gentlemen, because these gentlemen have said to you time and again that they were satisfied with seven judges, I think an honest effort is being made to bring that about, and a suggestion has been made here that that should go back to this committee again, gentlemen, and under those circumstances I want to say to you that I earnestly assert that this motion ought to be voted down, and that this committee, which has been successful beyond measure, has been one of the committees that did give something to you that should have stood untouched excepting as to this one matter, and where there was harmony, and such harmony as has produced magnificent results. And right here,

gentlemen, I want to stop one moment to pass upon the gentleman from Cook who presided over the deliberations of this committee the highest encomium and to say that he is worthy of the greatest credit for the splendid results that have been brought about, and who has done so much to make this article something that is sound and workable.

Gentlemen, I want to say to you that nothing will happen to this Constitution. I want to say to you gentlemen that before you conclude your deliberations, there will enter into your minds a picture of the loving spirit reflected by the great man that hangs there before you, who daily looks down upon your deliberations, and whose name I appeal to you to join together in the interests of a great empire state of seven million people, and this afternoon do not crush our deliberations, do not throw into the waste basket the action of a whole day. Vote down this motion to reconsider, sustain this section 5, and when you have done that, gentlemen, pass back to this committee this matter with a measure proposed by the gentleman from Champaign, and let it there be worked out upon that committee, that the State of Illinois may be kept upon a basis of seven judges; that if two judges are necessary to go to the County of Cook, that any sacrifice be made rather than wreck our judicial system by giving a greater number of judges than properly belong there.

Hence, gentlemen, I insist then, in the first place, that the offer of the gentleman from Champaign and his promise of the other day has been kept; he has done all that he can. By consultation with his fellow members he has procured an article that should produce results before this committee. You have heard from the lips of the gentlemen from Cook county that if they can be guaranteed the two judges, they are satisfied with two out of seven. Then why vote this down and attempt to return to the majority report? Vote this motion down, sustain your action of the other day after a debate of twelve hours, and let us return this to the committee and let the committee handle that matter, and I am satisfied greater justice will be done to the people of the State of Illinois and our judiciary system will be preserved as it should be, without adding to our judges two more, which have been declared by the bar and by the bench itself as wholly unnecessary.

Mr. KERRICK (McLean). Mr. Chairman, I am opposed to this motion for a number of reasons. To begin with I am sorry to say we have not made such rapid progress when we have our faces turned toward the front and are trying to proceed toward the end of our duties as members of this Convention, as to make it desirable to back track in a matter of this kind and at this time. As has been said, the question of nine judges or seven judges has been as thoroughly discussed already before this body as it is ever possible to discuss it again, and it was decided by a very substantial majority after that full discussion that we did not want a Supreme Court composed of nine members. We passed that article, and the question then became one as to whether Chicago should have one judge or possibly two judges out of a court of seven. The discussion progressed to a point where it seemed that everything had been offered from one side of the fence that could reasonably be offered as a concession. Then what occurred?

Was there anything proposed by the other side that would be more satisfactory to them, and which possibly might have been acceptable to a majority of this committee? Not at all. Something like an hour and a half was consumed in ridiculing the proposition; not one minute was consumed in proposing any counter measure. There was a great deal said about the improbability, even as suggested myself, of any action ever being taken by the legislature which would carry out the purpose of the proposition submitted by the delegate from Champaign. Could there not have been a proposition submitted to this committee which would have obviated any danger or supposed danger in that direction, either because of the refusal of the legislature or of the executive officers to whom the matter of apportionment was submitted by the proposition submitted by the delegates from Champaign? On the contrary, there seems to be no disposition on the part of the other side to do anything that might eventuate in the securing by the County of Cook of two members out of seven of the Supreme Court of

this State. The controlling thought in their minds is not to get two judges, not to retain a court of seven members, which seems to be the wish of the great majority of this committee, but to go back and thresh over again the straw that has already been threshed as fine as it ever can be threshed by this Convention and get three judges out of a court of nine.

Now, I say that it would be a reflection upon the intelligence of the people of this body, and the ability of this body of men, after having so thoroughly and so earnestly discussed the naked question of whether we should have a court consisting of nine or seven members, to allow this to be carried back over the track that it has once trodden and take up again a matter which has been discussed as it never can be discussed better again, not only a useless measure, because after consuming perhaps a week of the precious time that we have to try to get some important matters disposed of, we will go back and the vote will not only be a majority vote the next time for a court of seven, but it will be a larger majority than ever before. The proposition is this: We should come back again to where we were a half an hour or an hour ago, and instead of letting the matter drop after a tirade of ridicule and sarcasm and no argument and no suggestion of any other plan, we should go back and take hold of the job where we let go of it, and then if the gentlemen from Cook county are afraid that for some reason they won't get the two judges out of the seven under the method proposed by the delegate from Champaign, let them propose some plan by which they can be assured and draw out the view of the body here on that question and on that situation; and instead of going back over the trail and thrashing out this already threshed chaff and straw and coming back again here, I firmly believe to the same decision more emphatically pronounced than before. I am opposed to this motion for these reasons and many others that might be stated.

Mr. ELTING (McDonough). Mr. Chairman, I favor this motion to reconsider this question. I think this question should be settled before the question presented by the recommendation of the delegate from Champaign to redistrict the State. It is sensible to know how many judges we should have before we know how many districts we need. Since this Convention started I have been working for nine judges upon the Supreme bench. I have been in favor of that because of the necessities or the needs of that court, or rather, the needs of the people of the great State of Illinois for better service. When I found out that that court was overworked, and it has been intimated to me that they are underpaid, I took the trouble to find out the truth of the matter, and I found out this alarming condition, that the people's work, after they had gone to the trouble of taking their cases to that tribunal, lawyers that the clients were paying them about from one to ten or twelve weeks upon that case, that the necessities of that court only allowed the judges two days to review that case and write the opinion. And I was talking to a doctor today, a member of this Convention, and he said they should have at least a week for that work.

Now, there is nothing personal in this with me. I owe a duty to my district and to the great commonwealth of Illinois, and I have no fear of Cook county when it comes to selecting judges for the Supreme bench, and we have on that bench today one judge representing more than half of the people of this great commonwealth, and no one can say but what he is an ideal judge. But I say under our republican form of government that these courts are the people's institutions and agencies, and that being true how can we say that half of the people of this great State must be satisfied with one judge, and the other half with six? Now, I am a firm believer and a strong supporter of county representation in the legislature. I take that position because I believe it is absolutely right and fair, but should I say that Cook county is only entitled to one judge on the Supreme bench, I leave myself open to the criticism that has been made in this hall that we are unfair, and justly so. I think the proper thing to do is to reconsider this proposition and let it go back to the committee, and let them fix up the districts and the number of judges.

Then another thing, gentlemen. I have a most profound respect for all the members of this judiciary committee. I think on the whole they have put in more hard work than any other committee that has reported to this Convention, and that committee succeeded in their deliberations and efforts in bringing forth a majority report recommending nine judge. We also get the fact from that committee that that committee were unable to agree upon this proposition.

Mr. GREEN (Champaign). Mr. Chairman, I rise to a point of order. I call attention to rule 62. The fact that I have been at the President's desk might lead to the conclusion that the President suggested this, but it was suggested to me by another member on the floor of the Convention.

"When a question has been once put and carried in the affirmative or negative, it shall be in order for a member of the majority to move for reconsideration thereof, or give notice that he will make such motion, but no motion for the reconsideration of any vote shall be in order unless on the same or the next day of actual session of the Convention, provided that should the member giving notice of a motion to reconsider not make such a motion within the time prescribed by the rules, any other members voting in the majority may make that motion within the next session of the Convention," and so forth. Then the rule proceeds.

So that there being some confusion as to just what the action taken on section 5 was, at any rate under the rules this motion does not come up in order now.

THE PRESIDENT. The point of order raised by the delegate from Champaign is well taken and the motion is out of order under rule 62.

Mr. WHITMAN (Boone). I rise to present the following resolution and move its adoption:

"Resolved, That when this Convention does adjourn, that we adjourn until the first Tuesday in September, at 10:20 o'clock a. m."

Mr. WHITMAN (Boone). Mr. Chairman, and gentlemen of the Convention: I feel that we have arrived at a critical stage in the proceedings of this Convention. Any one who has been present here during the last ten days will bear me out in saying that this Convention has not been in a suitable frame of mind to consider questions in a calm and judicial way. In fact, we have been skating on such thin ice a considerable time that we have only been doing business by suffrance and not because we even had a quorum present. Under these circumstances it seems to me the part of wisdom that we should adjourn until September when we may come back and take up this business afresh and give it calm consideration.

It has been argued by some who have talked to me upon this question that the people would think this matter had grown stale and that we could not get their attention by that time. Gentlemen of the Convention, it is my calm conviction that the people of the State do not care so much how long we are about this job as they do about what kind of a job we turn out and present to them. It seems to me that we had better take such time as is necessary and present to them a Constitution which they can adopt and will adopt, rather than to hurry the matter and present a Constitution which they will not accept. Some may object to adjourning for so long a time. Let me draw your attention to the fact that very soon the Constitutional Convention must vacate this room and the legislature will here convene. It seems to me that we are at the present time at as good a stopping place as we can get. Very soon we will have proposals upon the second reading, and you all know that it takes a majority of all the members elected to pass a measure upon second reading. That means 52. If we have no more members present than we have had for the last two or three weeks, and there is any opposition whatever to a measure, practically everything which is put upon its passage on second reading will be beaten.

It has been said that perhaps we could come back here during the days when the legislature was not in session, but I want to draw your attention to the fact that, in my judgment, it is impractical. We have been trying to get the members of this Convention to stay here Fridays. We have not

succeeded. How can you expect the members to come back and sit here Friday, Saturday and Monday when the legislature is not in session? That idea and that measure is doomed before it is even tried.

Mr. TRAUTMANN (St. Clair). Will the gentleman yield to a question? Why do you think that we ought to take such a long recess, or any recess before we complete the work on first reading?

Mr. WHITMAN (Boone). I think we have arrived at the present time at as good a place as we will ever get to stop. Then, gentlemen of the Convention, let us go home, come back in September with minds and bodies refreshed, take up the job where we leave it now, and complete it and send to the people such a document as they will approve at the polls.

(Motion adopted.)

Mr. WHITMAN (Boone). I move that we do now adjourn.

Mr. KERRICK (McLean). We are entitled to have a roll call on that proposition, and not adjourn on a viva voce motion.

Mr. WHITMAN (Boone). I raise the point of order that the result has already been announced.

Mr. RINAKER (Macoupin). I just want to say a word here; it seems to me that we have acted so hastily here in this most important motion, that we should at least have the courage to put our action on the record. I for one did not think of calling for a roll call on this matter. For one, I very much doubt with this motion standing as it is that I shall ever return to the Convention, and by the way I am further informed that there were several members of the House who did not vote on that question, and it was through before they had a chance to do it. I appeal to this Convention, at any rate, to waive any technical objection there may be and to yield to the request of the members around here for a roll call.

Mr. WHITMAN (Boone). We have been censuring for two weeks the Cook county members, and justly, for saying that if they could not have what they wanted they would not play any longer. Now we get from the gentlemen down State the same idea that has been before this Convention, and they ought to be censured as well.

Mr. RINAKER (Macoupin). That is for the reason that the time to work is when your hand is at the plow, and if you quit to go home you will never get back.

Mr. CARLSTROM (Mercer). I move that we do now adjourn.

(Roll call.)

Mr. DUNLAP (Champaign). Not with the intention of debating the motion to adjourn, but as a statement of fact—

Mr. CARLSTROM (Mercer). If it is not a question of personal privilege it requires the unanimous consent.

Mr. DUNLAP (Champaign). It relates to myself personally, and for that reason it is a personal privilege.

Mr. CARLSTROM (Mercer). I continue my objection.

PRESIDENT WOODWARD. State your question of personal privilege.

Mr. DUNLAP (Champaign). The matter of personal privilege is this, if this Convention adjourns, as I am informed, now, whether correctly or not, I will not be a member of this Convention when it reconvenes on the first of September; and I also understand that there are eight or nine other members will not be for the reason that they hold a State office and will not be members of this Convention. I am stating that so you may understand the reason why I think we ought to proceed.

(Motion lost.)

PRESIDENT WOODWARD. What is your further pleasure?

Mr. RINAKER (Macoupin). It seems to me that the suggestion that was made here that a plan which would insure two representatives for the seventh district is one that would better be tried than discussed on the floor, and I knew these men, all of them want to get together on same basis and don't want to break up in a row which will be discreditable to all of them, and I have in mind the making of a motion that we take a recess until tomorrow morning, and that this committee that has been working on this matter see if they cannot come in and make a further effort on this emer-

gency, and come in with a provision that will be acceptable to both sides. I have not participated in the debate myself, I was not on the committee, but I know that the committee that was on the job worked diligently and hard, yet it seems to me in some way they ought to bring in a proposition. I would suggest this that if it is a matter of insuring to Cook county two members that there are abundant ways in which that can be done. I am willing to vote for such a clause in the Constitution as will forever guarantee to Cook county two members of the Supreme Court. Now shape it up, and put it in and I for one believe it will carry, and leave it to the legislature to take care of the rest of the State, and we are willing to trust the legislature.

Mr. GALE (Knox). In order to avoid the parliamentary difficulty which arises and to give us time to consider this, I move that we now recess until nine o'clock tomorrow morning.

(Whereupon a recess was taken to nine o'clock Thursday, December 9th, A. D. 1920.)

THURSDAY, DECEMBER 9, 1920, 9:00 O'CLOCK A. M.

Convention convened pursuant to adjournment.

The President in the chair.

THE PRESIDENT. The Convention will please be in order. The pending matter is the consideration of the resolution offered by Delegate Whitman that when the Convention adjourns, it adjourn to meet on the first Tuesday in September, 1921. Delegate Whitman is recognized.

Mr. WHITMAN (Boone). Mr. Chairman, since I offered the resolution yesterday, which is under discussion now, some of the things which were expected to be brought out by that resolution have occurred. One thing which we all wish to have done is to draw attention to the fact that it is time to do something definite. I am informed that something definite was done last night on the judicial matter. Under these circumstances, I desire unanimous leave to withdraw my resolution, with the idea that after the judicial department proposal has been considered, I may in substance, but in a little different form, renew it. I ask consent to withdraw by resolution.

(Consent granted.)

THE PRESIDENT. The Convention will go into the Committee of the Whole for the consideration of matters pending in the report of the committee on judicial department. Delegate Cutting will please take the Chair as chairman of the Committee of the Whole.

(The Convention thereupon resolved itself into the Committee of the Whole, with Delegate Cutting in the chair.)

CHAIRMAN CUTTING. The committee will be in order. The matter before the committee is section six of the substitute from the Committee on Judicial Department.

Mr. GREEN (Champaign). Mr. Chairman, having offered the substitute for section six, in view of certain agreements with reference to the modification of that section, I desire to withdraw the substitute which was pending before the committee at recess.

CHAIRMAN CUTTING. If there be no objection, the substitute will be withdrawn. The chair hears no objection, and the substitute is withdrawn.

Mr. TODD (Peoria). Mr. Chairman, I have in my hand a report of the down State members of the Committee on the Judiciary, covering sections six and seven. I wish to move the adoption of section six and will ask the clerk to read it.

(Section six read.)

Mr. TODD (Peoria). Mr. Chairman, I want to say to the gentlemen of the committee that following the taking of the recess of the Convention last evening, the members of the judicial committee who were in the Convention hall, both from Cook county and from down State, had a conference, and as a result of that conference were convened in one of the rooms at the hotel last evening, and some of us worked there until about two o'clock this morning undertaking to draw a section which would be acceptable to

the gentlemen of this committee. A plan was worked out and a reapportionment attempted. It was discovered early in the evening that it would be impossible to complete a reapportionment during the night, and for that reason the gentlemen who have signed this report decided to leave this section in the form in which it has been read. I am not authorized to say that it is a complete agreement between all the members, but in a spirit of compromise I think it is acceptable to the members of the committee, and should be adopted by this committee at this time. I hope that the members will vote for it, and that it will be adopted without the usual discussion which has been brought out by previous proposals. Judge Rinaker suggests that pending the recess, which will probably be taken by the Convention, the apportionment will be worked out and submitted to the Convention.

Mr. HAMILL (Cook). Mr. Chairman, if I understand correctly it is now moved that we adopt a section which is not complete, into which there may be inserted hereafter certain provisions as to the make-up of the districts 2, 3, 4 5 and 6. I don't see how we can do that. What will be the parliamentary stage of the matter if we should adopt section 6 in its present form? I do not want to put any technical objections in the way of making progress, but I question very much whether we will make any progress by adopting something that remains yet to be determined.

Mr. TRAUTMANN (St. Clair). Mr. Chairman, may I suggest that the rules provide for amendments of these various sections and articles on second reading, and I can see no parliamentary objection to an amendment being offered on second reading providing for the apportionment of the balance of the State outside of Cook county into these five districts, by way of amendment to that section. You can add to or take away from any section when it is up on second reading.

Mr. DIETZ (Rock Island). Mr. Chairman, it is manifest that this report is incomplete. It is plain that it means absolutely nothing. It is an attempt apparently to bind the action of this Convention upon a part only of the issue presented. It is plain the issue here is whether we shall have a court of nine judges and allow the districts to remain as they are, or whether we shall have a court of seven judges and redistrict the State. You cannot separate those two and be fair, because nobody knows what the result may be, and isn't it the right thing to do to wait until we have time to present the form in which you propose to redistrict the State so that we may know what we are doing? It may be and very likely, if I have any idea, if I am correct in what I think is the judgment of the majority of the delegates to this Convention, that they decidedly prefer to have a court of nine judges rather than to disturb the districts of the State. Let us not deceive ourselves in this matter. There has been a determination on the part of outside influences to control this article. Those same influences and the same men who have advanced that sort of contention are now proposing this blank. Is that necessary? Must we now act and act on only a half of the issue? Can't we have the courage to wait and present it all at the same time? I object to acting upon this now and I oppose the suggestion because it means absolutely nothing and it gets us nowhere at all.

Mr. DUPUY (Cook). Mr. Chairman, I should unhesitatingly and cheerfully vote for this proposition if it were complete, if it carried out the plan that appears to be in the minds of those who propose it. I agree with the delegate who has last spoken, it means nothing in its present form. How can we feel that any part of it has been settled or determined until we know what the complete and entire plan is going to be?

Mr. DAVIS (Cook). How does it affect Cook county?

Mr. DUPUY (Cook). It is perfectly obvious how it affects Cook county and all of us, in my opinion.

Mr. DAVIS (Cook). How?

Mr. DUPUY (Cook). Nothing is complete until it is all provided in this section and agreed on. Now, if the down State members will not agree on some plan that can be worked out and that will become feasible, and that will receive the approval of their judgment in regard to the rest of the State, why, some other plan has got to be adopted. I should think we ought

not accept this as a solution. We have too often here voted something through that carried with it the implication that something was going to be done that subsequently was not done and could not be done because it did not have the support of a sufficient number of delegates in the Convention to adopt the plan. I should think that action should not be taken on this until it is in complete form, and I shall vote accordingly.

Mr. CARLSTROM (Mercer). Mr. Chairman, I rise to agree with my colleague from the thirty-third district, and state to the gentlemen of the Convention that it does not seem to me to be the part of wisdom to hurry through an ill-considered, partially formed proposal at this time, which we shall oppose at every step of the road. We are opposed to the disturbing of the existing conditions in the State, with which the people have become accustomed, and acting under which they have become familiar. We see no necessity whatever for this disorganization to meet the problem that faces this Convention. If it is desired here to recognize the great mass of population in Cook county suitably on the organization, I want to say that as one down State member I shall vote and prefer increasing the size of the court to nine members and giving Cook county the three that they have asked for originally. I think it is the only practical solution of this proposition and I shall stand upon that basis during the deliberations of this Convention on this reading as well as second, and third, and I think that I have with me a great many of the thinking members down State who have given this matter thought, who will stand likewise, and we are ready to go along with you in that program, far preferable to this partially completed and as we believe ill-considered suggestion that is brought into the Convention or to the committee for our adoption. I am opposed to it and shall vote against the adoption of this proposal.

Mr. GALE (Knox). Mr. Chairman, will the gentleman from Rock Island answer a question? Don't you think that the same gentlemen who really prevailed upon us to adopt the seven judge plan instead of the nine might safely be trusted to redistrict the State in this manner proposed, in a manner that will be satisfactory to everybody?

Mr. DIETZ (Rock Island). Your views are so much better than mine, Mr. Gale. I would like to know what you think.

Mr. GALE (Knox). I think in view of the action of this Convention, it could be very safely left to the Convention, and to the people of the State.

Mr. DIETZ (Rock Island). Will you answer this question? Will you recommend leaving the entire article to this committee to pass on it finally with power to act?

Mr. GALE (Knox). I would recommend leaving it entirely to the committee to which you referred in your speech.

Mr. DOVE (Shelby). Mr. Chairman, it is not very often that I find myself at variance with the down State members of this committee, and it has not been very frequently that I have gone along with the Cook county delegation, especially upon this matter. I am opposed to the adoption of this substitute. I am opposed to this Convention redistricting the State. I am not unmindful that the only Democratic district in the State is the second judicial district. I have the utmost confidence in the ability of this committee to redistrict the State as fairly as any legislative committee or any legislative body, but I don't believe that it would be the wise thing for this Convention to tamper with any of the accepted Supreme Court districts. It would be within their power, and it will be, of course, within the power of the legislature, to take from or add to the second judicial district, such counties as might be desired or needful in order to make that district a Republican district. It seems to me that it is at least only fair that there should be one member of the Supreme Court affiliated with a party to which I belong, and for that reason I shall oppose the pending substitute, and for another reason, that I don't recall whether it was section six or seven, that provides for the terms, that the terms of office shall be nine years. It is my opinion that inasmuch as judicial elections are now to take place in November of each year, that the term of office of judges of the Supreme Court should be an even numbered year. The term of office should either be eight

years or ten years. Personally I prefer a ten year term, and by so doing, and then extending the term of office of the sitting members of the court to expire in November of an odd numbered year, then the election will not occur at any presidential election or for the election of State officers. For these reasons I am opposed to the substitute.

Mr. RINAKER (Macoupin). Mr. Chairman, I am not a member of the committee making this report, but it seems to me that some of the expressions here this morning are made not in the line of the appreciation that I have of the suggestion embodied in this report. It is not worth while attempting to conceal the matter that this is a compromise proposition, made for the purpose of assuring the gentlemen from Cook county that their claim of recognition is recognized by the down State members, and that the proposal made upon the floor by the representatives of Cook county, some of them, is accepted absolutely and finally in good faith on our part. The criticism that the section as offered is not complete, it seems to me, is not well founded for the reason that the lack of completion is only as to a matter about which there is no room for controversy, as between the parties to the controversy that we have been having. The people from down State have been able to get together upon all other proposals about which there were differences, and I see no reason why all the questions arising from this section cannot be equally well worked out and agreed upon in this Convention if the Convention believes that it should finally adopt an apportionment in this body. The adoption of this section does not finally lead to that. If it shall be determined that an apportionment cannot be made in this body, and I will say that personally I very much doubt the wisdom of attempting to do it, but yielding my opinion to that, if it shall be found that it introduces further elements of discord, that part of it can be abandoned, but I believe that we from down State ought to irrevocably commit ourselves to the acceptance of this proposal so far as it relates to the County of Cook.

If that is done, it seems to me that we have removed one of the matters about which we have differed and which has threatened to interfere with the completion of our work, and for one member, if this is adopted, while I am willing to cooperate in the matter of the redistricting of the down State, I will never vote to change the portion of the proposal that relates to Cook county, and it seems to me that that is the essential thing that we should pledge ourselves to by the adoption of this section at this time; and I trust that the matters that could not overnight be worked out into even a tentative plan of redistricting down State, may be postponed until they can be worked out during the recess which may well be taken when we complete this work. We can well recess when we have finished the work up to a point where the Committee on Phraseology and Style can whip into shape the different proposals to which we have pledged ourselves in this tentative way, and I certainly hope that the section as read will be adopted for the promotion of good will, for the purpose of getting together, for the purpose of completing the work, instead of quitting in an unfinished and an unsatisfactory and an ill-natured and ill-tempered condition as I feared we would yesterday.

Mr. GALE (Knox). Mr. Chairman, we passed last week section five providing for seven judges instead of nine. That immediately raised the situation, which I think has appealed to all the delegates from down State, that we were unfair in leaving to the great district including the County of Cook only one of those seven judges. I think there has grown up a feeling among the members down State that that must not be, that if we are only to have seven judges on the Supreme Court the County of Cook is of right entitled to two of them. Now, it may be that that is not as good a plan as to have nine judges and give three of them to the Cook county district, but the situation is this: We have passed section five and the time has gone by when it can be reconsidered. On second reading it can be amended. Now, here is a proposition to which many of us down State are willing to agree, to the effect that there shall be seven judges, that two shall go to Cook county, but speaking for myself, I am only willing to agree to it if this Convention makes a fair reapportionment of the balance of the State. I am

not willing that that should be left to the legislature, because I believe that this Convention, composed as it is, can make a fairer and more equitable apportionment of the State than the legislature can, and we will be following the precedent of the Convention of 1870, which it seems to me was right, and we ought to follow it.

Now, Mr. Chairman, if we pass this section as it stands, and between now and the meeting of this Convention after the time of adjournment a fair scheme of apportionment cannot be presented to come out from the Committee on Phraseology and Style, as it will have to do—while it will really come from the judiciary department committee, it will have to come through the machinery of the Committee on Phraseology and Style—when it comes up that way, we will have section five providing for seven judges, and section six providing that two shall go to Cook county and the other five be divided among the State districts as follows, and the counties will all be stated. Now, if these gentlemen find that a fair apportionment cannot be made, we will then on second reading have the opportunity to amend section five and provide for nine judges instead of seven, and do away with this apportionment, as I believe that every delegate here is satisfied that we must either make nine judges and give the Cook county district three of them, or we must make seven and give Cook county two of them, if we want to be fair at all; and it seems to me that if we pass this with the idea in mind that on second reading we can vote for it under those conditions, or amend section five if the conditions cannot be met, that it is the right thing to do, to support this section at the present time. And, Mr. Chairman, I want to join my friend from Macoupin in the statement that I shall never vote for seven judges except upon the proposition that two of them go to the County of Cook.

Mr. ELTING (McDonough). Mr. Chairman, I feel that I should explain my vote upon this proposition. If I vote for this proposition it is on the ground solely that it is a move in the right direction, but it does not settle the controversy for which I have been contending in this Convention. It does not touch the overworked condition of the Supreme Court; and if I do vote for this, it is solely on the proposition that it is a compromise measure and an honest attempt on the part of the State to treat fairly with Cook county in this matter. As far as being a settlement of the other controversy whether we should have seven or nine judges, it does not touch that proposition. It simply offers Chicago part of what they want and does not give those that are contending for a Supreme Court of nine judges any offer of compromise, and I am with my fellow delegates from Mercer and Rock Island, that I hate to see our district disturbed in Western Illinois. While the boundaries have been settled for a great number of years, it has not yet got over the effects of a gerrymander that was made some time ago, and I would very reluctantly vote to make any changes in our fourth judicial district, when that does not meet the demands that are being made of this Convention.

Mr. GREEN (Champaign). Mr. Chairman, I do not rise to debate the question. Your committee has done its best, it is all agreed. We could debate it all day and wind up either with a completed Constitution that would save our situation before the public as to having completed the debate, or break up in confusion. This is the best the committee could do, and I do not believe that prolonged debate would help it, and I move the debate be closed and that we proceed to vote.

Mr. LINDLY (Bond). I think it is very unkind of the gentleman from Champaign to move to close the debate.

Mr. GREEN (Champaign). I withdraw it if anybody wants to talk.

Mr. LINDLY (Bond). I want to say, Mr. Chairman, that as for myself, everybody knows the position that I have taken on this question. I was in favor of giving Cook county three of the judges, and in favor of nine judges for the Supreme bench. I believe that if this is adopted, that the apportionment should be made in this Convention. I thought that I foresaw the very condition that we now are in, and thought with some of the members of this Convention that if they voted for seven judges of the Supreme

Court, they would have to in all justice and candor and right give Chicago two of the seven, and that would destroy one of the districts down State, and I did not see how in the world they could ever get the Convention together upon the judge that would have to give up his place on the Supreme bench down in the country, and I thought the happy solution of the proposition was to have the nine judges, leave the districts down State as they are and give two to Chicago and one to the seventh district outside of the City of Chicago. But I am willing to go along with this to second reading so that we can solve something here and do something here, but I want to state to the Convention, with the gentleman from Macoupin and others, that I shall never vote for this proposition on second reading unless the State is redistricted and the two judges go to Cook county. On the other hand, if it is not put in that shape, I with others, will support the nine judge proposition.

Mr. WALL (Pulaski). Mr. Chairman, I think there is much wisdom in what the delegate from Macoupin and the delegate from Bond have said. The question presents itself to me in a sort of a judicial way. I have never been set on just seven judges. I voted for seven judges on the theory that sitting as a judge, taking the evidence that came from either side for seven or nine judges, I would vote in favor of seven because the evidence in favor of that number predominated. From the four letters from the Supreme Court judges which were read into the record here, it convinced my mind against the evidence introduced on the other side that the evidence preponderated in favor of seven judges, because there seemed to be no necessity for more than seven judges to do the business, and when in addition to that evidence the section relating to Appellate Courts was offered, I thought the evidence very greatly preponderated in that direction and I voted on the ground solely that there was no actual necessity for increasing the size of the court, but this is a trial *de novo* and additional evidence has been offered here, to-wit, the redistricting of the State, if we retain the seven judges and give Cook county two.

To my mind that overcomes the evidence on the other side, and if today I were permitted to vote on the question of nine judges, I would vote for nine judges from the State, three coming from the seventh district. But that is not to be considered here. We are presented with a proposition of whether or not we ought to adopt this report of the down State members of the judicial committee and further consider the question of apportionment. I am in favor of constitutional apportionment. I think this body ought to do that, but I am inclined to vote aye on this motion because I feel like it is the best way now out of the difficulty. I really believe on second reading that the Cook county delegates will get what they want with reference to the number of judges. I am inclined to the view that this thing will be amended when we reconvene, and that you will get nine judges, three from your county. I believe now we should stand by the report of the down State delegates to this committee and vote to confirm their action last night and then take the matter up later on second reading if an apportionment cannot be agreed upon that is fair to all of us. I know that so far as my own district is concerned, the population is such that it meets the ratio and there will not be any changes made there. It would not matter if there were one or two counties added. It would not change either its political complexion or the number of its candidates to this office, but the district just north, and represented by Judge Dove of Vandalia is in an entirely different condition, and it has one of the very ablest men on the bench, and I believe as a matter of policy and as a matter of good government that the Supreme Court ought to have some Democrats as members of that court, at least one, and that to me is some evidence upon the other side of the question. I believe, however, that we ought to this morning adopt this motion and I shall vote for it.

Mr. CARLSTROM (Mercer). Mr. Chairman, it seems perfectly evident from the discussion here that this proposition will never carry on second reading. We are against it and I think we ought to just as quickly as possible get to a position where we express our honest convictions on this proposition, and in order to reach that, in order that we might reconsider

section five, I move you, Mr. Chairman, that we suspend the rules for the purpose of reconsidering the vote on section five. This is not to reconsider at this time. It is a motion to suspend the rules for the purpose of reconsidering. We might just as well get back to this thing, gentlemen; there is no use deceiving ourselves and shut our eyes and tie our hands on first reading with the idea that we are going to change it and set it aside on second reading. That is child's play. Let us be honest on it and do it right now.

Mr. GREEN (Champaign). Regardless whether the motion is in order or not, I sincerely trust the gentleman from Mercer will not press the motion, independent of the merits of the other thing. What we are all interested in is to try when the recess is taken to have some orderly, decorous, completed constitution which is in the hands of the Committee on Phraseology. Many, many things may be changed on second reading, if indeed you conceive that this section depends upon the ability to work out during the recess its solution, but the great purpose which actuated the committee was to try this morning briefly and with good feeling, without opening up debate on all these other things, and it is opened up if these things are gone into, in which the Convention cannot recess in that same frame of mind that it could in the orderly procedure be followed, and I sincerely trust that that motion will not be pressed, either whether it is in order or not.

CHAIRMAN CUTTING. The Chair will rule that that motion is out of order in view of the fact that there is a motion pending at this time undisposed of.

Mr. SIX (Pike). Mr. Chairman, the gentleman from Champaign has expressed my own idea of the proper course. My district is in the position of being at the mercy of a reapportionment by this body and by the legislature. It being now Democratic, and like all other delegates we are very anxious not necessarily to keep our judge but to keep our constituency in a proper frame of mind, it occurs to me the minority report at this stage of the Convention has the proper method of solving our question. We ought not to go into the merits of this proposition at this time, but we ought to go along for the purpose of preserving the record and getting some place when we come back. To attempt to go into the merits of the question, which I think ultimately will have to be gone into, at this time is to make a mistake. I would like to see the minority report adopted, but reserve the right on second reading to go into this question on its merits, possibly take a position which some might think inconsistent with my present one.

Mr. JARMAN (Schuyler). Mr. Chairman, I would simply like to ask a question so that I can vote intelligently. I don't understand, do I, from Judge Rinaker's statement that anybody voting for this proposition is pledged not to vote hereafter for nine judges?

Mr. RINAKER (Macoupin). Certainly not. I do think that the down State people owe it to themselves, as well as to Cook county, to see that so far as Chicago's representation is concerned they shall not be changed, meaning by that—personally, I think they ought to have two members—but meaning by that that the proportionate representation of two or three, as may be finally determined on second reading, shall not be changed, so that Cook county understands that the down State yields to their demands for a larger representation than they now have. Now, whenever the question comes up, as the gentleman has said a while ago, for determination on its merits, if it shall, I shall oppose any three judges, because I am in favor of a court of seven members. If that question can come up, I shall stand for two members from Cook county of the seven members of the court, and any man who has a different opinion as to the size of the court will have, of course, the same right to vote for three from Chicago in a court of nine. I think that ought to be clearly and fully understood, and that in no other particular should Chicago be changed.

(Section adopted.)

Mr. TODD (Peoria). Mr. Chairman, I move the adoption of section 7 as a substitute for section 7 of the majority report.

(Section read.)

Mr. DOVE (Shelby). Mr. Chairman, I would like to offer an amendment by striking out the word "nine" and inserting the word "ten" before the year. The purpose of this amendment is simply to provide that the judges shall be elected in off years rather than in the years when we have a presidential election or when State officers are elected. It is immaterial to me whether it is a ten year term or an eight year term. Personally, I have a slight preference for the ten year term. It seems to me that it would be a mistake to provide for the election of Supreme Court justices at the same time when elections occur for national and State officers. Under the Constitution, I think, of 1848, the elections were provided for June of the years when Supreme Court justices were elected, and following that provision the Constitution of 1870 so provided.

Mr. GREEN (Champaign). Mr. Chairman, may I ask the gentleman's permission to interrupt for a moment and make a little explanation?

Mr. DOVE (Shelby). Certainly.

Mr. GREEN (Champaign). If you press your motion now, you require a change in the whole scheme of the retiring of positions for the other justices. This really belongs in the schedule anyway, and it will no doubt be put there by the Committee on Phraseology. Now, the five terms expire in 1924, so that before you change to a ten year term, in order to avoid these presidential elections, of course, you have to extend these other terms, and which ones you would extend would make a great deal of difference. I believe with that explanation you will see that until the question of the expiration of the terms is settled, by the schedule, you may not be certain that you would want this provision, because if it remains with the expirations as they are, with the election in June, 1924, all five of the terms, you can see at once that you would be in trouble and you would require a change in that, then you open up the question as to how far they shall be extended, so we will save time if by the schedule committee they would make provision for the extensions according to the exigencies of the matter following either a reapportionment or whatever might be done on second reading. With that explanation don't you think that ought to be left to second reading until you see how that turns out?

Mr. DOVE (Shelby). The only thing, Mr. Green, I do not believe the schedule committee has anything to do with the length of the term.

Mr. GREEN (Champaign). But if you make it ten years and you leave the expiration as it now is in 1924, you get into the very thing you mentioned instead of getting away from it.

Mr. DOVE (Shelby). That is true, the extension must be carried to odd numbered years. I am perfectly willing not to press the motion at this time, but I don't want to be considered bound by the report as submitted here at this time.

Mr. TRAUTMANN (St. Clair). Mr. Chairman, just a few words. This amendment offered by the gentleman from Shelby must prevail if you don't want to elect the other judges when you are electing your other officers, but in order to do that, you will have to change the election of the judges whose terms expire in 1924 to an off year. The others are in 1921 and 1927 already. If you leave it an odd numbered year, every once in a while every judge in Illinois will hit an even numbered year, and it seems to me that it is advisable to elect your judges in the odd numbered years, when you don't elect your national, county and state officers.

Mr. HAMILL (Cook). I have not given the matter any thought but I am in sympathy with the suggestions made by the gentleman from Shelby and St. Clair, and it seems to me that the objection raised by the gentleman from Champaign is not well taken. It will be within the function of the schedule committee to recommend a change in the time of the expirations of the present judges, but not within their functions to recommend a change in the term of the judges, and therefore it seems to me the gentleman from Champaign has got the cart before the horse. We should make the change from nine to ten, and then leave it to the schedule committee

to recommend a change in the expirations of the terms of the present justices.

Mr. GREEN (Champaign). Mr. Chairman, may I ask a question? Suppose the schedule committee did not change it, than by making your ten year term you have gotten into a situation worse than before, and the suggestion was made that these first elections probably ought to be held in June instead of extending those terms to November on account of that particular expiration, and that that would have to happen as to some of them anyway in order to divide the year in which they were elected.

Mr. HAMILL (Cook). In reply to the question I assume that any schedule committee after hearing this debate, if the Convention should make the change from nine to ten, would realize why the change was made and would recommend the change in the expiration of the terms of the present justices, and if the schedule committee did not do so, I assume that the Convention would do it itself.

Mr. DUPUY (Cook). Mr. Chairman, I think there cannot be the slightest doubt that the schedule committee will be very glad to follow the wishes of the Committee of the Whole or of the Convention, and I am very sure that that committee would like to have an expression from the Committee of the Whole as to whether the term shall be nine years or shall be ten years, that its work might be wrought out accordingly. I personally think ten years would be a better term than nine years, because if the schedule be so arranged that the election does not fall on the presidential year or the year when they elect State officers, it will be so all the way through. If you adopt the nine year term at regularly recurring intervals, at any possible event beginning with 1924, there will be a time when elections will come at the presidential year. I wish in the interests of the schedule committee especially that you might give us an expression of opinion by vote on this pending motion. Personally I hope it will carry.

Mr. DOVE (Shelby). Mr. Chairman, one other word upon this amendment. Now, section 28 as was adopted by this committee adopting the majority report of the Committee on Judicial Department, the election of circuit judges in Cook county is to be held in 1923, 1925 and 1927, and odd numbered years; and in section 31 as adopted it provides for the election of judges to the district court of Cook county in 1923, 1925 and 1927; and section 17 provides for the election of circuit judges outside of Cook county in November, 1927, and every six years thereafter, making all of these have terms of six years, and all of their elections will occur at what is known as odd numbered years, non-political years, if there is such a thing. Now, the terms of the justices of the first, second, third, sixth and seventh districts in the Supreme Court expire in June of 1924. Of course, there must be some further action by this committee, or suggestion from the Committee on Schedule, extending those times to an odd numbered year. Then if there is an election held in even numbered years, every ten years, then it is practically impossible for the election of judges to the Supreme Court to occur when national and State officers are elected. That is the very purpose of this amendment. Unless we do change it, unless we do make it an even numbered year and not an odd numbered year, the election is bound to occur—I have made a table of it showing that within the next 60 years, the election of these judges to the Supreme Court is bound to occur about three times in that length of time at the same time when national and State officers are elected. I should think it is an important amendment, and I respectfully urge this committee to adopt it so that the schedule committee can be governed by it. The schedule committee has nothing to do with the length of terms for judges of the Supreme Court. They could recommend, and it can be taken up to this committee, to adopt or ratify their suggestion, and for that reason I ask that this committee now go on record favoring a ten year term, or at least an even numbered year for the election of judges of the Supreme Court.

(Amendment adopted.)

(Section adopted.)

Mr. GREEN (Champaign). Mr. Chairman, I move the adoption of the article as now amended be reported to the Convention.

Mr. GALE (Knox). Mr. Chairman, when the committee reported yesterday, I understood that the chairman of the committee reported to the Convention, and his report was accepted, the adoption of all of this article except these reserved sections.

CHAIRMAN CUTTING. The gentleman from Knox is correct, I think.

Mr. GALE (Knox). Therefore, it does not seem to me that there should now be a motion to adopt the article, but on the contrary a motion to adopt the section.

CHAIRMAN CUTTING. Excuse me a moment. The secretary informs me that his record does not show that it was adopted as a whole at any time, and that his record can show now the adoption of it all in better shape than if we adopt it piecemeal.

Mr. GALE (Knox). Then I withdraw my objection.

(Motion carried.)

Mr. GREEN (Champaign). I move the committee rise and report progress.

(Motion carried.)

Mr. CUTTING (Cook). Mr. President, I have the honor to report as chairman of the Committee of the Whole that the article reported from the judicial department committee as amended has been adopted.

(Report adopted.)

Mr. WHITMAN (Boone). Mr. President, I desire to offer the following resolution and move its adoption. I think this resolution, Mr. President, is self-explanatory and I will not take any time to discuss it.

(Insert resolution.)

Mr. TRAUTMANN (St. Clair). Mr. President, just a few words: Before this resolution is voted upon, I desire to call the attention of the members of this Convention to this fact, that under a decision of the Supreme Court of this State all appropriations of this kind unless the contracts have been made for the expenditure of the money prior to July 1, 1921, no money can be spent thereafter, but if contracts have been made, bills outstanding, they can be paid between July 1, 1921, and September 30, 1921. If this resolution carries to take a recess until September, 1921, you will have to depend absolutely upon the General Assembly re-appropriating the balance still in the treasury, and if the General Assembly does not re-appropriate that money, then this Convention is dead unless the people who are employed here will work for nothing and unless you can get your printing bills out for nothing, because you will have no money that is available for that purpose, and I simply want to call your attention to the fact that you will have to depend entirely upon the General Assembly for the life of this Convention.

Mr. WHITMAN (Boone). Mr. President, would it be in order to make a little statement in regard to that appropriation matter?

THE PRESIDENT. I can only reiterate what Mr. Trautmann has said concerning the necessity of a re-appropriation of the fund for the expenses of this Convention. As Mr. Trautmann has said, our Supreme Court has held that all bills against appropriations must be contracted before the 1st day of July but can be paid thereafter up to and including the 30th day of September. In order that the Convention should have any money, with which to transact its business, it will be necessary to get a re-appropriation of the unexpended balance from the next General Assembly. It is a question of policy for the legislature to determine whether or not it will make the appropriation.

Mr. DUNLAP (Champaign). Mr. Chairman, I have not been convinced by any argument that has been advanced here that this Convention cannot proceed to work in the interim at least between now and the convening of the General Assembly. We have a number of reports from the Committee on Phraseology and Style that might be taken up, and I think it is the duty of the Convention to proceed along these lines and complete the work as fast as we can. If we show a disposition to do that, why, it does not appeal

to me that there would be any difficulty in securing appropriations for any work that we could not perform in the meantime.

Then, furthermore, it might be said that the Committee on Phraseology and Style might possibly complete the most of its work, if not all, by the first week or two in January, and those who are familiar with the facts know that the General Assembly meets about one day each week for the first three weeks at least of the session. That is practically all the time that they are in session. So that the balance of the week there would be no objection that I can see to this Convention occupying this hall and going on with the work of the Convention. I look forward to rather a short session when this Convention is on the order of second reading. There are only a few controversial matters, perhaps a half dozen, that might possibly take one day each, and if that is true, most of these matters having been settled, it does appeal to me that there is no need to look forward to any long session of this Convention when it reconvenes to consider the matters which have not yet been reported upon by the Committee on Phraseology and Style.

Another thing, if this Convention is to report a Constitution which is to be voted upon by the people, it ought in my opinion to be submitted before it becomes too hoary in age to be recognized by those who started it, and it ought to be at least reported so that it can be voted upon at some time during the coming fall of 1921. In all probability the session of the General Assembly that is about to convene will be several weeks shorter than any previous session for some time, and if that were true, it would be possible to meet perhaps by the 1st of June and during the month of June complete the work that is left unfinished if we proceed with the work now, and that can well be left, I think, to the chairman of the Convention, to determine the time of reconvening within certain limits, at least. So that it appears to me that we ought to go ahead with the work of the Convention as far as we may at this time and not take an adjournment until next September. It seems to me absurd to adjourn to such remote date, and I am opposed to the resolution.

Mr. JARMAN (Schuyler). I am in favor of this resolution, but I want to make a simple suggestion; ought not this Convention at this time take some action with reference to the filling of vacancies in this Convention that now exist or that may exist between now and September?

Mr. DOVE (Shelby). Can you tell me the amount of the unexpended balance at the disposal of the Convention at this time?

PRESIDENT WOODWARD. I don't know the exact amount, but it is more than ample to cover all expenses which will be incurred by the Convention.

Mr. DOVE (Shelby). Anything like two hundred thousand?

PRESIDENT WOODWARD. About two hundred thousand dollars, possibly ten thousand dollars either way.

The president announces the appointment of Mr. Gray as chairman of the committee to edit the debates of the Convention. Mr. Clark who has been chairman of that committee has been appointed chairman of the Committee on Phraseology and Style, and asks to be relieved of his duty as Editor of the Debates.

(Resolution adopted.)

PRESIDENT WOODWARD. Now the president does not know of any other business on the desk which can be transacted at this time.

Mr. HAMILL (Cook). I now move that this Convention be adjourned.

Whereupon the Convention stood adjourned until the first Tuesday in September, 1921.

TUESDAY, SEPTEMBER 6, 1921.**10:00 o'Clock A. M.**

The Constitutional Convention met pursuant to adjournment.

President Woodward presiding.

Prayer by Rev. Abram G. Bergen.

THE PRESIDENT. The Journal of Tuesday, December 7, 1920, was placed on the desks of the delegates on the last day of the session and is subject to approval or correction today.

There being no objections to the approval of the Journal of December 7th, it will stand approved.

Special orders of the day? Reports of standing committees? The gentleman from Lake, Mr. Clarke.

Mr. CLARKE (Lake). Mr. President, the Committee on Phraseology and Style desires to present several reports, being numbers 7 to 19, both inclusive.

THE PRESIDENT. The Committee on Phraseology and Style presents reports numbers 7 to 19, both inclusive. The reports will be received and ordered printed and placed upon the calendar.

Reports of select committees? Introduction of proposals? First reading and reference of proposals? Second reading of proposals? Motions and resolutions? The delegate from Pulaski, Mr. Wall.

Mr. WALL (Pulaski). Mr. President, I desire to offer the following resolution:

(Whereupon the Secretary read the resolution.)

THE PRESIDENT. The question is upon the adoption of the resolution offered by the delegate from Pulaski, Mr. Wall. Are there any remarks?

Mr. WHITMAN (Boone). Mr. President.

THE PRESIDENT. The delegate from Boone, Mr. Whitman.

Mr. WHITMAN (Boone). I move as a substitute for the date placed in the report Tuesday, the first of November, 1921. I move the adoption of that as a substitute.

THE PRESIDENT. The delegate from Boone moves as a substitute that the date be fixed for Tuesday, November 1st, 1921.

Mr. WHITMAN (Boone). At that time at 10:30.

THE PRESIDENT. The question is upon the adoption of the substitute offered by the delegate from Boone. Are there any remarks upon the substitute? The question is then upon the adoption of the substitute.

Mr. TRAUTMANN (St. Clair). Mr. President.

THE PRESIDENT. The delegate from St. Clair, Mr. Trautmann.

Mr. TRAUTMANN (St. Clair). I have no other information except from newspaper reports to that effect, that the Governor has issued a statement that he intends to call the General Assembly together in November; and if that is true, it seems to me that this Convention should not adjourn up until that time, because we use the same hall that the House of Representatives does. It seems to me that that should be considered, in connection with the substitute.

Mr. DUNLAP (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Dunlap.

Mr. DUNLAP (Champaign). I would like to have enlightenment on this subject, why it is necessary to adjourn at all. If the gentlemen who have offered these resolutions and amendments will kindly give us that information, I think I can vote more intelligently upon the matter.

I can see no good reason why this Convention should adjourn over until the first of January, when we have spent so much time in recessing that the people of the State of Illinois have almost forgotten that there is a Constitutional Convention, and if we adjourn over a few more times it would look as though we were encouraging that sort of belief.

I am a member of the Constitutional Convention because I believe that we ought to go ahead with our work and accomplish what we were given to do and submit the matter to the people of the State of Illinois, and it appears to me that the thing for us to do is to go ahead, unless some good reason is shown why we should take an adjournment. If there are good reasons, I would like to know what they are. If because of some reason that is tangible and not a mere rumor, why, then we could take some definite action on that tangible thing, if it is once stated; but to say that we could not adjourn until the first of November because there is a rumor in the newspaper that the Governor might convene the General Assembly seems to me would be a good deal like our action today if we were to vote to adjourn over until the first of January because the newspapers said last week that we were likely to make such an adjournment. What I would like to know is whether we are here to follow newspaper suggestions or whether we have some good reason for adjourning over. I would like to hear from the gentlemen on this question.

THE PRESIDENT. Are there any further remarks on the substitute?

MR. WALL (Pulaski). Mr. President.

THE PRESIDENT. The delegate from Pulaski, Mr. Wall.

MR. WALL (Pulaski). There are many things which are fundamental that ought to be taken into consideration with reference to our action on this motion. I am speaking with reference to the original motion. They are not mere trivial things, or things to be guessed at, but they are fundamental.

We all know without argument of the chaotic condition of things in the State generally, and in politics in particular. We also know that the summer has been a long hot summer and we have come back here with the three great fundamental questions which we had up when we adjourned still pending, and that possibly we are still most of us at this time of the same kind on these questions as when we adjourned. There must be, Mr. President, such consideration, such a temperamental consideration of these questions, that they will be solved either through a committee appointed by the Chair or solved in some other deliberative manner that will enable us when we get down to work again to work in a spirit of harmony, common sense and practicability, so that a result may be arrived at within a reasonable time after we again convene and do business.

It is also true—although this reason I shall now offer is not a fundamental reason, and technically not a good one—that the courts of the State generally, the circuit courts, do half of all of their business in the months of September, October and November. I know that is true in Southern Illinois, and I have been informed it is true largely all over the State, possibly outside of Cook County. Will we get a quorum here? Will we get the workers in this Convention here if we undertake to go on now? The hot season is not over yet; that is an excuse for some of us, while not really a good one. It seems to me that if we should meet here one or two days in the week without a quorum, or say one or two days with a quorum, the result would be if we go on now that we will accomplish nothing in the next month, and possibly not in the next two months.

I am satisfied that we ought to pay, as Delegate Trautmann says, some attention to this question of the reconvening of the Legislature in November. The general understanding is that that will be done. If so, we and the House of Representatives cannot both occupy the same space at the same time, and that is an additional reason that I think ought to be considered in connection with this matter.

But the great, fundamental and overpowering reason why I think an adjournment ought to be taken and why I offer this resolution is the fact that the condition of the public sentiment, the condition of the minds of the

delegates, the condition in which we left the Convention, forbid an immediate meeting and a reconsideration along old lines. I think, Mr. President, that there ought to be, not a general reorganization, but a realignment of forces here on the great fundamental questions that affect this constitution most, and to that end there ought to be an adjournment, with time for the Chair to consider these things and time for the delegates to reconsider, and there ought to be, when we reconvene, a quorum here all the time; there ought to be an agreement to work all the time, and there ought to be an agreement to accomplish something; and for that reason I make this motion.

Mr. CARLSTROM (Mercer). Mr. President.

THE PRESIDENT. The delegate from Mercer, Mr. Carlstrom.

Mr. CARLSTROM (Mercer). I am opposed to the substitute that has been offered, and I am in favor of the original motion.

I believe that there are some reasons other than those which have already been advanced for the carrying of the original motion, and that it should prevail. In my opinion there is not an intelligent man in this body (and I assume that they all are) that does not realize that the psychology of the public mind, not only in Illinois but in the United States and in the world even, is in the most disturbed condition that it has been during the lifetime that we younger fellows here, at least, have had. If this Convention should conclude its labors, I believe sound judgment would dictate formal adjournment to some distant date before it would be advisable to submit the result of its labors to the people. I say that in full recognition of existing facts. We are passing through a condition of world readjustment which affects the people and finances of this country, causing unrest and uneasiness in all circles of society. The readjustment of prices of commodities has left the great agricultural industries of the State smarting under a condition which is utterly unfair; and the condition of unemployment leaves the great labor organizations in a position where they feel a spirit of criticism. I believe it would be utter folly for this Convention to submit the result of its labors to the people at any near date.

I want from the bottom of my heart, gentlemen, to see the result of the deliberations of this Convention adopted by the people of the State of Illinois, and I want to see it produce a constitution that will be of greater benefit to the State and the government than we have had under the present constitution.

In other words, the main object of this assembly is to achieve success in the purpose for which it has convened. I believe it would be in the interest of that ultimate success if we would take this adjournment, not until November, but until January.

With reference to a further reason that has been advanced, that the courts meet in September, October and November, I want to say that we have practically all of our court work up until the first of January. That is true of most of the counties downstate, and that would have an influence on the attendance here. Some of us, on account of the length of the adjournment of this Convention, have been placed in other positions, by elections or otherwise, that demand a portion of our time, and many of us are in such a situation that it would be very difficult indeed for us to attend the Convention at this time.

Personally, I would like to participate in the deliberations of this Convention and give to it every day I possibly can, in order to bring about the successful accomplishment of the labors of this body, and I honestly and sincerely believe, having in mind the condition of unrest throughout the country, having in mind all these things which I have mentioned, that there ought to be an adjournment until January, when we would all be more free to meet here. We have prospects in the near future of a readjustment which will bring us back to a state of sanity. By January we would be enabled to properly reject or adopt the Constitution, giving thought to the soundness of its principles rather than to the animosities and prejudices arising from the conditions which now prevail.

I respectfully submit that the substitute ought not to prevail, and that the original motion should be endorsed by this Convention.

THE PRESIDENT. Are there any further remarks?

Mr. WHITMAN (Boone). Mr. President.

THE PRESIDENT. The delegate from Boone, Mr. Whitman.

Mr. WHITMAN (Boone). I wish to make my position clear on this matter, on the substitute that I have offered.

Personally, I came here with the idea that we should go to work and stay at work until we had finished our job, and do it up this year. In deference to the opinion of a good many lawyers who claim that they have already had their business so arranged that they cannot stay here and go to work at present, I have offered this substitute, not as my idea, but as some common ground upon which we all might unite.

I am reliably informed that within sixty days after the Convention of 1870 adjourned, forty members of the Convention had died. At the rate we are going on, if that is any precedent, we won't have enough members here to constitute a quorum. At the same time that fact might be argued on the other side, that to prolong our lives we ought to adjourn from time to time. You can take either horn of the dilemma that you prefer, but so far as that is concerned, there will always be excuses whenever we meet here why we should not go ahead, because there are always some members of the Convention that desire to do something else.

I sympathize with the lawyers to this extent, that I am willing to make a compromise so far as I am concerned, but I am informed by lawyers also that in January and February there are just as many circuit courts in session as there are in September and October, but that they do not do so much business; consequently the lawyers even at that time might not want to stay. I also know that when it comes to January, February and March there are very many members of this Constitutional Convention who desire to escape the rigours of the northern winters and are accustomed to go elsewhere. These members have already stayed here one full winter and part of another, and I submit it is asking considerable of them to stay another full winter.

I am told by many that the political atmosphere is such that we should not meet at the present time. I agree that the political atmosphere is surcharged with putridity, but I submit that there will be no change in that condition by the first of January, unless it is worse at that time. The political atmosphere is in such a condition that you cannot clear it by any little thunder shower; it is going to take a long period of renovation before it will ever be as it should be. I might say also that it will have to undergo a process of fumigation before it will ever arrive at a proper point of clarity.

But if we wait for that, our Constitutional Convention will sit until those of us who are not already gray will become gray.

Under these circumstances it seems to me, after we have already adjourned from December until the present time so that people might get these matters clearly in their minds, that if there is a further adjournment until the first day of November, which will give the lawyers time to get their business off the deck, we should then come here and we should vigorously get to work and settle up the matters before the Constitutional Convention before the first of January.

It does not follow at all that whatever constitution is made by this Convention will have to be submitted to the people at such time as these political troubles are on hand. It is entirely right that after we meet and get our ideas in proper shape and submit them to the Committee on Phraseology and Style, we should adjourn for three or four or six months, if we want to, so as to come back here and then take such time as is necessary in submitting this matter to the people of the State; but, I tell you, gentlemen, we are going to be in grave danger, if we keep adjourning from time to time with things in their present status, and make so long an adjournment as the first of January now, of getting the delegates to this Convention into such a condition of mind and body that we won't have a quorum here at the time set for meeting.

THE PRESIDENT. The gentleman from Cook, Mr. Miller.

Mr. MILLER (Cook). It seems to me that the delegate from St. Clair has suggested a conclusive reason upon the only question, as I understand

it, now before the House, and that is the question as to whether we should adjourn until November. That is the sole subject of the substitute motion.

Now, if my memory serves me, it is not merely newspaper rumor that the Governor is to call together the legislature in November, but on the contrary a formal statement by him was published in all the newspapers, to the effect that he intended to call a session in that month, and formally warning the members of the legislature and saying that the Governor issued the statement for the purpose that they should arrange their business and affairs so that they could be here in November. That is my recollection of the formal statement published in every paper published in Chicago, every paper that I saw.

Now, in the face of that, if this Convention should vote to adjourn until November, knowing that we would have no place to go unless the legislature were not in session, wouldn't it be an expression of opinion by us that the Governor did not mean what he said? Of course that is a thing that we should carefully avoid under all and any circumstances.

THE PRESIDENT. Are there any further remarks?

Mr. KERRICK (McLean). I very heartily endorse what has been said by the delegate who has just taken his seat, in view of the fact that it appears to be very evident that under no circumstances will we be permitted to go ahead at this time with the work of this Convention.

It has been suggested that in November the courts will be in session. That is true, but it must not be forgotten that we convened in November, in the early part of November, nearly a year ago, and between that time and the sitting of the legislature we did perhaps more work in a given length of time than we had ever done before, with the same membership as we now have. What was done then can be repeated.

It strikes me that whoever organized and brought here for our consideration (which they might very properly do) the question of whether we should proceed with our work now or postpone until a later date, must be gentlemen of capacity and standing in this State, of that quality that they could learn at this time from the chief executive whether or not there will be a special session of the legislature called in the month of November. Perhaps I may be wrong about that, but I, for one, do not feel satisfied to come down here expecting to go ahead with the work for which I was chosen by the people of my district and to turn around and go back upon the mere knowledge that the Governor even, as one delegate has said it, announced directly some months ago that he was going to call a special session of the legislature in November. We have not heard nearly so much of that from the Governor recently as about other things which may clearly change his purposes and his views and his desires in that direction. I take it we have a right to ask of that man whom we have elevated to the highest office the State can confer whether or not—in a situation of this kind when a body such as this is assembled here for the purpose for which it is here, I think we have a right to ask of the chief executive what his present intentions are with regard to doing an act or calling a convention or a body here that will require the use of this place. We have a very good right to ask it, and I have no doubt the Governor would so regard it. I, for one, am not inclined to vote on a matter of this kind with nothing in my mind except the mere rumor of some months ago, even the statement of the chief executive at that time, that he would call a special session. I can't vote on a thing of that kind.

Over and above and beyond all that, I am very free to say that if I could have my own choice, which I am quite aware I cannot with the sentiment here as it is, there would be no adjournment to any future date except from day to day. I can understand very well why so few people are present here today, so few members. The propaganda which has been put afloat—perhaps I should not say “propaganda,” but the newspaper statements, which seemed to be something which had taken the shape of a council of some sort—was to the effect that we were going to adjourn today, and that certain matters had been settled to such an extent that there would be little or no debate in this Convention hereafter, and that during the adjournment

there would be prepared a Constitution which would be so nearly ready for its final adoption that we had not much to do but to come together and ratify it. In view of all those things, I do not wonder that a large proportion of the members here would say to themselves—I came near doing it myself—"Why, I will not rush down there on Monday to get there early on Tuesday; I will not go Tuesday; by Tuesday the papers will announce whether or not they are going to adjourn. By Wednesday I will pack my grip and come down and be there Thursday. There will be nothing much done this week." That is why we have so few people here.

Whether it was the design to affect an adjournment today to some distant time in the future, whether or not that was so designed, nothing could have been done which would so perfectly work towards bringing about such a result as that than the articles in the newspapers a few days ago that there probably would be an adjournment. It has resulted in so few members being here that a vote taken here would not represent the real sentiment of this Convention on this matter of an adjournment to the distant future.

I do not care particularly for criticism, public criticism, if it be unjust, but if I know it to be just it does hurt me, even though I do not intend to ask any political favors during the remainder of my life and have asked very few up to this time. I know that we are subjected to criticism, and from people who are not mere carping critics, but people who have been our best friends. You and I and all of us have been asked, "Why is it you take so many and at times such long vacations?" We have had some sort of plausible excuse heretofore. Perhaps I might say we have had good enough excuses, but, gentlemen, if I have to go back to talk to the people whom I know have horse sense and who are interested in what we are doing here and who want us to succeed, and tell them the only reason I can think of for this adjournment is that the Governor once said he might call a special session of the legislature in November, they will become skeptical. I am going to quit the business of trying to make excuses, because they won't wash with my kind of people any longer.

Now, again, even if the Governor shall conclude to call a special session of the legislature sometime in November, won't we know about that call the length of time that the statute requires the people in general to be given notice? How much time will we lose? How much inconvenience will we suffer, as compared with what we might do with honest labor towards the perfection of the work for which we were sent here. If we had to quit, we could quit in time for the occupancy of the next body, but we could do some work before; and on the other hand we would be taking all the chances against the probability that we would not be interfered with by any calling by the Governor of a special session of the legislature. I for my part would almost be willing to do a little prophesying to the effect that he will not call a special session of the legislature. I think that is the opinion of a great many men who are members of this Convention. But even if he should, we will not be put out very much; we will get in several weeks of work before he calls that meeting.

Now, there is force in what Judge Wall has said about the work of the courts, but it is equally true, as said by the delegate who spoke later, that there are courts in January and in February too; in some places as busily engaged as at any any other time; but a great deal of the fall work of the courts is well along or concluded, much of it, by the 10th or 12th of November; and we have, as I said, the example, the fact known to all of us that we did begin about that time in November a year ago and got along for six or seven weeks and did a great deal of work, and important work.

Now, I don't want to take up too much time, but I am not going to say anything more about this after I once quit this talk. I was interested in the remarks with reference to the psychology of the situation, made by the gentleman who dwelt upon that phase of the situation so eloquently. It is a time when it is hard to judge of how people will receive any act of any public body or what they will adopt or reject. That is true, but I am not aware that we are in any deeper trouble on that account now than we

were when we were elected members of this Convention. Certainly no very considerable change for the worse, at least in that regard, has occurred, since we would have been willing a year ago, had the legislature not have taken our room, to have finished this Convention and perhaps by this time or a little later have submitted it to the people for their endorsement or rejection. I can't conceive that that has very much to do with the situation here today, gentlemen. These things, I cannot regard as much else than makeshifts and attempted plausible excuses for doing something that as men who are under obligations to the people who considered us qualified to represent them in the matter of making the fundamental law for the State of Illinois, we should not do. I think our people have a right to expect us to go ahead, even if we can only put in a week or two, whenever we can, getting this work rounded out and finished.

I do not like to make a statement of this kind, but I have made a calculation, rather hastily, to be sure. It is now nearly twenty months, or will be, I should say, if we should adopt either of these resolutions; the substitute, for instance; it will have been twenty months since this Convention was first convened. Counting five days as a proper number of days to have been busy here, we have not been in actual session more than about one-fifth of that twenty months. It may be that there are good reasons for most of that, probably all of it, but I would not know how to construct a sufficient reason or even a plausible excuse, for any more recesses of considerable length by this Convention, unless it is absolutely prevented in some way from remaining in session.

THE PRESIDENT. The question is upon the adoption of the substitute offered by the delegate from Boone that when the Convention adjourn today, it adjourn to meet on November 1, 1921.

Mr. DUNLAP (Champaign). Mr. President, may we have a rising vote on that?

Mr. TRAUTMANN (St. Clair). Mr. President?

THE PRESIDENT. The delegate from St. Clair, Mr. Trautmann.

Mr. TRAUTMANN (St. Clair). It seems to me before this important question is submitted to a vote, either the original or the substitute resolution, that this Convention is entitled to the opinion of the President of the Convention. He has been in touch, no doubt more than any other member, with the members of the Convention during the past few months, and perhaps knows their views and reasons why these motions should be adopted or rejected, and it, seems to me that we are entitled to his views, and I would like to hear what the President of this Convention has to say on these two resolutions, if he cares to express his opinion.

THE PRESIDENT. If the Convention will indulge me from the Chair:

During nearly all of the summer I was receiving letters frequently from various delegates suggesting that when the Convention reconvened on September 6th, because of economic and because of political conditions it would probably be inopportune for the Convention further to resume its work at that time.

The suggestion was further made that the Constitutional Convention is engaged in writing a Constitution for an indefinite time and that to do that it must be written in an atmosphere as free as possible from disturbing economic influences, as well as from disturbing political influence. Political influences, of course, are always with us, and will be if the Convention should adjourn until January as well as if we should adjourn to November.

The delegate from Mercer has very ably, in my judgment, hit upon the real substantial reason why the Convention should take a further adjournment until January, namely, because of the disturbed economic conditions, among the farming communities of this State as well as among the laboring communities of this State.

The day before I left, I had, I think, twenty-eight or thirty letters from various delegates saying that they preferred that the Convention go over, some of them until November, three or four, and the most of them until January, stressing the economic condition which prevailed. Those delegates, or most of them, at least, are not here this morning, and I think

that possibly represents the sentiment of those who are absent, namely, that they are of the opinion that the Convention should go over.

Moreover, about a year ago, when the Convention was closing its hearings on the questions before the Committee of the Whole, I labored against the sentiment on this Floor which at that time was in favor of an adjournment; I did the best that I could, in my feeble way, to keep the Convention together and to have it complete its labors before the first of January. It was very difficult to work against the intangible feeling that the Convention should adjourn at once. The fact was that the Convention could not work. There is that intangible feeling today, that the Convention should take a further adjournment.

I have given the matter very careful consideration. If I were to consult my own personal wishes in the matter, my own personal convenience in the matter, I would want to finish the work of this Convention just as rapidly as possible. But as I have canvassed the situation, I believe that under present conditions we could not write a Constitution which would be acceptable to the great body of this Convention; and I am constrained to believe that between now and the first of January steps may be taken whereby the work of the Convention may be more harmoniously adjusted and some definite program may be worked out whereby the work of the Convention may be facilitated.

The delegate from St. Clair has asked my judgment; I have given it to the Convention, and the question is upon the adoption of the substitute offered by the delegate from Boone, Mr. Whitman. The question is upon the adoption of the motion.

Mr. MICHAL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Michal.

Mr. MICHAL (Cook). I have listened to all that was said in this matter. I do not think that between now and January 1, 1922 or between January 1, 1922 and January 1, 1923 the political and economic conditions will materially change so that the general public throughout the State of Illinois will be in a receptive mood to vote favorably upon the propositions we are going to submit to them in the proposed draft to this Constitution upon which we have been laboring somewhat—I should not say diligently—for a long period of time, at least a longer period of time than any other Constitutional Convention has ever taken in these United States.

I want to call the attention of this Convention to one pertinent fact—I am speaking for Cook County, of whose conditions I have a somewhat fairly good knowledge—and that is I do not see how you are going to raise much enthusiasm in the minds of the taxpayers and the renters when next year they will receive their tax bills which will increase their taxes from forty to sixty per cent over what they have paid the past year. Labor is going down. Food commodities are getting cheaper. But so is the money getting scarcer, and it kind of equalizes things. I think the revenue proposal before this Convention will not meet with the approval of the general public. I think that there will be a great deal of apathy on the part of the general public when this proposed draft of the Constitution is submitted to them for their revocation and approval.

However, I think we can accomplish more by forgetting all ideas of procrastination which we have so faithfully indulged in, and get down to brass tacks and put our nose to the grindstone and do something and show the general public we want to do something to alleviate the conditions which now confront them. There is no use of building fire-escapes when the building is burned down. Let us start now. I think now is the most propitious time for us to do something, and I think by these delays we have had an opportunity amply to gauge the sentiment of the respective communities from whence we come.

I want to say to you, my friends, that in my territory the people are going to rise when they will see these tax bills, and particularly when they will reflect upon the condition, as the doctor from Boone County (Whitman) so aptly put it, of political putridity, which no amount of fumigation will clarify or purify. I believe that they will overwhelmingly defeat any effort

on our part, so, in the vernacular of the street gamin, "What's the use of kidding ourselves?" Let's get through, and for Heaven's sake not take up more valuable time and accomplish nothing by it. We have had the opportunity and we have destroyed a golden opportunity, and I can see no success, no ultimate success, for the passage of this Constitution or any Constitution that this body will ever inflict upon the people; and when I say inflict, I use that term advisedly. And so I say to you gentlemen, let's try to be square with ourselves and get through with this and stick until we get the thing done, and then let the kind public take a slam at it, as they will eventually do anyway.

THE PRESIDENT. Are there any further remarks on the substitute? If not, all in favor of the adoption of the substitute will please say Aye.

Mr. LINDLY (Bond). I would like to have the question stated. I came in just a moment ago.

THE PRESIDENT. The question is, the delegate from Pulaski, Mr. Wall, offered a resolution that when the Convention adjourns today, it adjourn to meet on January 3d, 1922, and the delegate from Boone, Mr. Whitman, moved as a substitute to insert in place of January 3d, 1922, the word and figures, "November 1st, 1921," and the question is upon the adoption of the substitute motion.

As many as are of the opinion the substitute should prevail, say Aye. As many as are of the contrary opinion, say No.

(Whereupon the substitute motion was declared lost.)

The question is upon the adoption of the original resolution offered by Delegate Wall. Are there any further remarks? If not, all in favor of the adoption of the resolution offered by Judge Wall say Aye. Those of the contrary opinion, No.

VOICES. Division.

THE PRESIDENT. As many as are of the opinion that the substitute, or rather the original motion, should prevail, please rise. That is, to adjourn to January 3d, 1922.

Those opposed, please rise.

(Whereupon the original resolution was declared adopted, by a vote of 31 ayes as against 11 noes.)

Mr. MIGHELL (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane, Mr. Mighell.

Mr. MIGHELL (Kane). I have a resolution which I would like to present and move the adoption of. May I have it read by the Secretary, please?

(Whereupon the Secretary read the resolution.)

THE PRESIDENT. You have heard read a resolution offered by the delegate from Kane, Mr. Mighell. Are there any remarks?

Mr. MIGHELL (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane.

Mr. FIFER (McLean). I am very much opposed to that resolution—

Mr. MIGHELL (Kane). I would like to explain the resolution.

THE PRESIDENT. The Chair has recognized the delegate from Kane, and will recognize Governor Fifer next.

Mr. MIGHELL (Kane). Just a word, gentlemen, in regard to this resolution.

There is a feeling in the State that we are losing interest in the work of this Convention, and I am fearful that our action just taken will increase that feeling, and that there may be a thought that we have abandoned the job entirely in our own minds. This resolution which I have suggested is, in my opinion, a resolution that should pass for other reasons, but for that reason alone I think it should pass, because it is an announcement to the people of this State that we have not abandoned our job, but that we want our ranks filled up, and that we will come back here in the course of four months and do the work that we were elected to do.

But, again, the real reason why we should fill these vacancies is because the districts from which they come should have full representation. There

are now five members who have died and one who has resigned. This does not affect those who have been elected to other offices or appointed to other offices; this simply has reference to those who are dead and those who have voluntarily resigned, of both of which classes there are six at the present time, and there may be more between now and January 3d. It gives the Governor notice from this Convention that we would like to have him act under the Statute and call these elections and fill these vacancies.

Then, this Convention is entitled to a full body in its operations. We claim that it is a difficult thing to get a quorum here, and we know it is. It is more difficult because of the six of our men who are dead or have resigned. We know that there are a great many, or at least a number of men who do not attend regularly. It will be a difficult thing to get a quorum even with the membership filled up by these six or seven or eight elections, as it may prove to be; so I think that there are several good reasons why we should fill our ranks, reasons that we are interested in as members of this Convention, and which will tend to maintain the proper feeling of the voters of this State towards the work that we have to do.

I hope that you men will see this thing as I do and vote for it. All this vote means is a recommendation to the Governor that he act within his authority.

VOICES. Question.

THE PRESIDENT. Governor Fifer is recognized.

Mr. FIFER (McLean). I have nothing to say.

THE PRESIDENT. Are there any further remarks? If not, the question is upon the adoption of the resolution offered by the delegate from Kane, Mr. Mighell, to request the Governor to call elections to fill vacancies caused by death or resignation.

As many as are of the opinion that the resolution should prevail, say Aye. As many as are of the contrary opinion, say No.

(Whereupon the resolution was declared adopted.)

Is there any further business? If not, a motion to adjourn will be in order.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). I make a motion that the Convention do now adjourn.

THE PRESIDENT. The question is upon the adoption of the motion of the delegate from Champaign that the Convention do now adjourn. As many as are of the opinion that the motion should prevail, say Aye. Those of the contrary opinion, say No.

(Which motion was declared carried.)

(Whereupon the Convention adjourned until Tuesday, January 3d, A. D. 1922, at 10:00 o'clock a. m.)

TUESDAY, JANUARY 3, 1922.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Rev. W. T. Rogers, pastor of the First Presbyterian Church of Macomb, Illinois.

THE PRESIDENT. The journal of December 8th, 1921, was placed on the desks of the delegates at the last session of the Convention and is subject to correction. There being no correction proposed, the journal of December 8th, 1921, is approved.

The delegate from Lake, Mr. Clarke.

Mr. CLARKE (Lake). In the report of the Committee on Phraseology and Style, No. 12, the legislative article, under section 7, there was a mistake by my oversight. It is not the fault of the rest of the committee, but through my oversight, the report of the Legislative Committee in section 7, as to the extent of the action of the Convention on December 2nd.

I desire now to ask leave to amend the report of the committee and substitute therefor the action that was taken by the committee of the whole on December 2nd.

THE PRESIDENT. The chairman of the Phraseology and Style Committee makes a supplemental report correcting report No. 12 of that committee. Under the rules, the supplemental report will be ordered printed and placed upon second reading.

The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President, I move you that the Convention do now recess until 2 o'clock this afternoon.

THE PRESIDENT. The delegate from Will, Mr. Barr, moves that the Convention now recess until 2 o'clock this afternoon.

(Motion prevailed.)

Whereupon the Convention took a recess until 2 o'clock p. m., Tuesday, January 3rd, 1922.

2:00 o'Clock P. M.

The Convention reconvened pursuant to recess.

The President in the chair.

THE PRESIDENT. The Convention will please be in order. The gentleman from Will, Mr. Barr, is recognized.

Mr. BARR (Will). Mr. President, I move you that when this Convention adjourns, it adjourn to meet Tuesday, January 31st next.

THE PRESIDENT. The delegate from Will, Mr. Barr, moves that when the Convention adjourn today it adjourn to meet on Tuesday, January 31st, 1922.

Mr. BARR (Will). At ten o'clock a. m. I want to make a statement in connection with that.

THE PRESIDENT. At ten o'clock a. m.

Mr. BARR (Will). Mr. President, I feel impelled to make this motion, due to the fact that this Convention some months ago passed a resolution asking the Governor, or suggesting to the Governor the desirability of calling special elections in the districts where vacancies occurred, for the purpose of electing delegates to the Convention to fill those vacancies.

At the time of adjournment, it was considered that those elections would be held and those delegates elected would be qualified so as to sit in the

Convention at this time. It now develops that the elections are to be held on the 22nd or 23rd of this month, and therefore the delegates naturally cannot take part in the Convention unless the Convention adjourns or recesses until such time as the new delegates are elected.

I might further state, Mr. President, that when it developed upon the assembling of the delegates that it was desirable to take up the legislative article for consideration as first matter of business, it was deemed by many of the delegates of the Convention especially proper and necessary that we should defer action on that important matter, which is at least one of the one or two most important matters in the Convention, until these delegates who are to be elected have an opportunity of qualifying or being elected and qualifying, so that they might participate in the Convention, the business of the Convention.

It is not the desire of the delegates who have suggested this adjournment that this Convention drag along. We are anxious that the business of the Convention should be taken up and disposed of with the highest degree of expedition that is compatible with a reasonable amount of courtesy and consideration for the delegates to be elected and for the people in the districts who are now without full representation.

For those reasons, Mr. President, it has seemed wise on the part of the delegates to suggest that the Convention when it adjourns adjourn to that date suggested, the 31st of January, after the election, and with the understanding that the legislative article will be the first matter of business taken up at that time.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. Mr. Hamill.

Mr. HAMILL (Cook). Mr. President, this question of adjourning to a time four weeks off has been a matter of consideration among the delegates during a good part of this day. Our friends from down State have met with each other and exchanged views, and have come to the conclusion that it is wise that the Convention should adjourn. That suggestion was made to us of Cook county, and at first did not meet with our approval, because we realized that the people of our county were getting very impatient and were coming to the conclusion that this Convention was not disposing of its business with that promptitude that the public had a right to expect. It was only after much consideration and considerable urging of our friends down State that we have been brought to a point of view where we are not disposed to antagonize the motion now made. It has been represented to us that if this adjournment takes place it is probable that there will be a better feeling among our friends down State upon the question of apportionment, and that especially there will be dissipated a feeling which has been engendered, by what means I know not, for there is no ground for it, that the Cook county delegation, nineteen strong, have come down here resolved to "railroad" or "steam roller" this Convention. In view of that feeling on the part of our friends down State, we of Cook county will vote for the motion now made. (Applause.)

THE PRESIDENT. Are there any further remarks? The question is upon the adoption of the motion of the delegate from Will, Mr. Barr, that when the Convention adjourn today it adjourn to meet on Tuesday, January 31st, 1922.

(Motion carried.)

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

(Report read.)

THE PRESIDENT. The question is upon the adoption of the report of the Committee on Rules. Are there any remarks? Do you desire a roll call?

VOICES. Roll call.

(Report adopted by vote of 59 to 1.)

Mr. HAMILL. Mr. President.

THE PRESIDENT. The gentleman from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I would like to ask that my colleague, Alexander H. Revell, be excused on account of pressing business. He would have been here tomorrow had we been in session.

THE PRESIDENT. Without objection, Mr. Revell will be excused.

Mr. BARR (Will). Mr. President, I would like to ask consent that my colleagues, Mr. Corlett, be excused for the reason some matter of very pressing importance necessitated his being absent. Mr. McEwen is detained on the same business with Mr. Corlett.

Mr. DAVIS (Cook). I would ask the same as to Mr. Cutting.

THE PRESIDENT. Without objection, Delegates Corlett, McEwen and Cutting will be excused. I would say I just had a telephone conversation with Delegate Johnson of the Bureau County district, advising me that he is ill and he also asks that his name be added.

Mr. HOLLENBECK (Clark). Mr. President, may I be recorded as voting aye?

Mr. HULL (Cook). If it is in order, I would like to make a motion that the report of the Committee on Style, report No. 8, in re proposal No. 385, be re-referred to the Committee on Phraseology and Style. That is the report upon the Chicago and Cook County Article. I have consulted with the chairman of the committee and the drafts man of the committee, and I think there are a number of changes which he would like to make, and I would like to see made, to conform more to the intention of the committee.

THE PRESIDENT. Mr. Hull moves that the report of the Committee on Phraseology and Style on the subject matter of Chicago and Cook County be re-committed to the Committee on Chicago and Cook County—

Mr. HULL (Cook). No, the Committee on Phraseology and Style.

THE PRESIDENT. Re-committed to the Phraseology and Style Committee.

(Motion carried.)

THE PRESIDENT. Is there any further business to come before the Convention?

Mr. GREEN (Champaign). I move that we now adjourn.

THE PRESIDENT. As many as are in favor of the motion to adjourn signify by saying aye. Contrary no.

(Motion carried.)

THE PRESIDENT. The Convention stands adjourned until Tuesday, January 31st, 1922, at 10:00 o'clock a. m.

Whereupon an adjournment was taken by the Convention to Tuesday, January 31st, 1922, 10:00 o'clock a. m.

TUESDAY, JANUARY 31, 1922.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

THE PRESIDENT. The Convention will please come to order.

Opening prayer by the Chaplain, Rev. Charles A. Briggs, of the First Methodist Church of Freeport, Illinois.

THE PRESIDENT. The journal of September 6th, 1921, was placed on the desks of the delegates at the last meeting and is now subject to correction. There being no corrections proposed, the journal of September 6th, 1921, will stand approved, and it is so ordered.

The President presents to the Secretary the certificates of election of six delegates elected to fill vacancies in this body, and asks the Secretary to make the announcement to the Convention.

THE SECRETARY. (Reading from certificate of election):

"State of Illinois, Executive Department. Len Small, Governor. To All to Whom These Presents May Come, Know Ye That B. L. Catron," etc. (Reading election certificate of B. L. Catron, 41st District.)

Like certificates for George W. Tebbens, from the 2nd District; Stanley Adamkiewicz, from the 27th District; B. H. Pinnell, from the 22nd District; Charles D. Cary, from the 20th District, and Edward E. Adams, from the 40th District.

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. Mr. Gale.

Mr. GALE (Knox). Mr. President, I move that these certificates, and the matter of the election of these delegates be referred to the Committee on Qualifications and Election of Delegates.

THE PRESIDENT. Mr. Gale moves that the certificates presented by the Secretary be referred to the Committee on Qualifications and Election of Delegates.

(Motion prevailed and certificates referred to the Committee on Qualifications and Election of Delegates.)

Mr. FIFER (McLean). Mr. President, I move that the President appoint a committee of five to wait upon the presiding judge of Sangamon county and invite him to be present and administer the required oath to the newly elected delegates.

THE PRESIDENT. The chair suggests that the report of the committee be first acted upon before that motion be entertained.

Mr. GALE (Knox). Mr. President, the chairman of the Committee on Qualifications and Election of Delegates, Delegate Wolff, does not seem to be present. In former proceedings of that committee I acted as its clerk, and should like to suggest the names of the members of that committee and suggest that we meet in the room back of the hall here. Those delegates are Delegate Charles Woodward, of Cook; Delegate Mayer, of Cook; Delegate McEwen, of Cook; Delegate Rosenberg, of Cook, and Delegates Shaw, Fifer, Pearce and myself.

THE PRESIDENT. Will the members of that committee please retire to the room designated by Mr. Gale and prepare their report?

(Whereupon the members of the Committee on Qualifications and Election of Delegates retired for a short interval.)

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. Mr. Gale.

Mr. GALE (Knox). Your Committee on Qualifications and Election of Delegates, to which was referred the certificates of election of the following

persons, elected to fill vacancies as delegates in their respective districts, respectfully reports that such persons are duly elected as delegates to this Convention and are entitled to seats therein:

B. H. Pinnell, 22nd District;
George W. Tebbens, 2nd District;
Charles D. Cary, 20th District;
Stanley Adamkiewicz, 27th District;
Edward E. Adams, 40th District;
B. L. Catron, 45th District.

THE PRESIDENT. Mr. Gale presents the report of the Committee on Qualifications and Election of Delegates, and moves its adoption.

(Motion prevailed and report adopted.)

THE PRESIDENT. And the delegate from McLean, Governor Fifer, moves that a committee of five be appointed to wait upon the circuit judge of Sangamon county and requests him to administer the oaths of office to the newly elected delegates.

(Motion prevailed.)

THE PRESIDENT. The chair will appoint upon that committee Governor Fifer, Mr. Six, Mr. Paddock, Mr. Cruden and Mr. Gale.

Mr. FIFER (McLean). The committee will meet in the President's room.

(Whereupon the members of the committee retired for a short interval.)

Mr. FIFER (McLean). Mr. President, your committee presents Judge Smith, presiding judge of the circuit court of Sangamon county, who is now ready to administer the oaths to the newly elected delegates.

THE PRESIDENT. The committee presents Judge Smith to the Convention, who is now ready to administer the oaths to the newly elected delegates. Will the Secretary please call the names of the newly elected delegates and as their names are called, will the delegates present themselves before the Secretary's desk?

THE SECRETARY. Mr. Tebbens, Mr. Adamkiewicz, Mr. Catron, Mr. Adams, Mr. Cary and Mr. Pinnell.

JUDGE E. S. SMITH. Gentlemen, will you raise your right hands and be sworn? You and each of you do solemnly swear that you will support the Constitution of the United States and the Constitution of the State of Illinois, and that you will faithfully discharge the duties of delegate to the Constitutional Convention to the best of your ability, so help you God! (Applause.)

THE PRESIDENT. The Convention has now reached the head of special orders of the day. I will ask the Secretary to read the special matter set for today.

Mr. CLARKE (Lake). Mr. President, before that is done, may I present three reports by the Committee on Phraseology and Style? I desire that they be made a matter of record and ordered printed.

THE PRESIDENT. Mr. Clarke, from the Committee on Phraseology and Style presents three reports of his committee, to be made a matter of record, and the order will be that the reports be ordered printed.

Special orders of the day.

(Whereupon the Convention proceeded upon the order of special orders of the day.)

THE SECRETARY. (Reading). "Your Committee on Rules and Procedure recommends that sections 6 and 7 of report No. 12 from the Committee on Phraseology and Style on proposal No. 366, now pending on second reading, be made a special order on Tuesday, January 31st. 1922, and each succeeding Convention day thereafter until final disposition thereof on second reading; that said sections 6 and 7 be considered and adopted together, and final vote be first taken on said section 7, then on said section 6, or amendments thereto or substitutes therefor, respectively."

THE PRESIDENT. And the Secretary will read sections 6 and 7 of report No. 12 of the Committee on Phraseology and Style.

Mr. BARR (Will). May I rise to a point of information at this time as to the construction of the rule that was adopted, of the Rules Committee?

I observe that in the report rather, of the Rules Committee, the last portion of the report is the part that I have special reference to, in order that we may understand just now what the purport or intent of that report is. "That said sections 6 and 7 be considered and adopted together, and final vote be first taken on said section 7, then on said section 6, or amendments thereto or substitutes therefor, respectively."

Now, do I understand that a vote upon section 7 separately is a final vote on section 7, in so far as second reading is concerned, and that it will not be submitted to the Convention as a part of the article to be voted on again, on roll call? I just want to get the intent of this rule understood, or rather, this report. My understanding is that in the report on military affairs, the separate sections were voted upon by vive voce vote and the final vote on the article complete was the vote considered to require the fifty-two votes. Does this rule, or this report, change that method of procedure?

THE PRESIDENT. Does the delegate from Will want a ruling from the chair on that?

Mr. BARR (Will). Yes, I would like to have one.

THE PRESIDENT. It occurs to the chair that the inquiry from a parliamentary standpoint is premature; that the matter for consideration now is the consideration of the substance of these reports, and at a proper time the construction of the report of the Committee on Rules, as adopted by the Convention, might possibly arise, but the chair is of the opinion that it is premature at this time.

Mr. BARR (Will). Very well, I will withdraw the inquiry then, Mr. President.

THE PRESIDENT. Mr. Secretary, will you please read sections 6 and 7.

THE SECRETARY. (Reading.)

"Section 6. The General Assembly shall apportion the State at any session which may be then pending, or, if none, then at its first session following the adoption of this Constitution and in the year 1931 and every ten (10) years thereafter, into fifty-seven (57) senatorial districts, each of which shall elect one senator whose term of office shall be four (4) years and the basis of senatorial apportionment shall be the number of voters who voted for Governor at the last regular election at which a Governor was elected previous to the apportionment.

The territory now constituting the County of Cook shall be divided by the General Assembly into nineteen (19) senatorial districts and the number of such voters in that territory shall be divided by the number nineteen (19) and the quotient shall be the ratio of representation in the Senate for that territory.

The territory now constituting the remainder of the State shall be divided by the General Assembly into thirty-eight (38) senatorial districts and the number of such voters in that territory shall be divided by the number thirty-eight (38) and the quotient shall be the ratio of representation in the Senate for that territory.

When a county contains two (2) or more ratios of its territory it shall be divided by the General Assembly into as many senatorial districts as it has such ratios. Districts in counties so divided shall be bounded by precinct or ward lines; or both; all other senatorial districts shall be bounded by county lines.

All senatorial districts shall be formed of compact and contiguous territory and the districts in each territory shall contain as nearly as practicable an equal number of such electors but in no case less than four-fifths ($\frac{4}{5}$) of the ratio for that territory.

Senators shall be so elected that the term of those now in office shall not be disturbed. They shall be divided into two classes so that one-half as nearly as practicable shall be chosen biennially.

Section 7. At the same time that the senatorial apportionment is made the State shall be apportioned into representative districts.

Members of the House of Representatives shall be elected for the term of two (2) years from each county or district.

Each county shall be entitled to one representative in the House of Representatives. Each county having a population in excess of fifty thousand (50,000) shall have one additional representative for each additional fifty thousand (50,000) population, or major fraction thereof.

Each county entitled to more than one representative shall be divided by the General Assembly into as many representative districts as there are representatives to be elected from such county. Such districts shall be formed of compact and contiguous territory bounded by precinct lines and containing as nearly as practicable an equal number of inhabitants but in no case less than four-fifths ($\frac{4}{5}$) of the quotient resulting from dividing the population of that county by the number of representatives to which it is entitled."

THE PRESIDENT. You heard the reading of the matter which is set for consideration this morning. Mr. Barr is recognized.

Mr. BARR (Will). Mr. President, if in order, I move that we now proceed to consider section 7, as provided in the report of the committee.

THE PRESIDENT. Is the chair to understand that that is in the form of a motion?

Mr. BARR (Will). Yes, I move the adoption of section 7.

THE PRESIDENT. Mr. Barr (Will), moves the adoption of section 7 and the question is upon the adoption of section 7. On that question, Mr. Barr (Will), is recognized.

Mr. BARR (Will). Mr. President, I just desire to make a very brief statement at this time. One of the delegates especially has made, I think, perhaps a more careful study of the matter of representation, or basis of representation, than is usually made or than has been made by most of the other delegates, at least, and has made a thorough investigation and has prepared a much more complete argument than I feel that I am in a position to make, and I therefore am going to ask that the chair permit me to waive the privilege of opening the debate, and that Delegate Jarman (Schuyler), open the debate on the part of the movers of the motion. I want to say, however, in connection with the proposition, that is, the adoption of this section 7, that if the section is voted up on this second reading, that I will make a motion to submit with section 7, to be voted upon by the people at the time the Constitution is presented to the people, a substitute or an alternative section 7, which has heretofore been submitted on first reading, and which section 7 provides for representation base upon population. In other words, if section 7 as contained in the report is voted up, is made a part of the Constitution on second reading, that I will, following that, move that there be submitted to the people the alternative section, or a section which, if receiving a larger number of votes when submitted to the people, shall become section 7, which alternative proposition provides for representation in the lower House based upon population alone.

Mr. JARMAN (Schuyler). Will open the debate for the proponents of this proposition.

THE PRESIDENT. Mr. Jarman (Schuyler), is recognized.

Mr. JARMAN (Schuyler). If I were consulting my own feelings with reference to this matter, I should not address this body upon this question again, but the committee which has this question in charge has indicated that they desired me to open the debate on this question this morning.

There are many phases of this matter that I will not discuss. I will endeavor to avoid discussing any phase of it that I have heretofore discussed on this floor.

The study of this question of representation in a parliamentary body has become a very interesting one to me. I find that there are no books written on the subject. I find that any information procured must be hunted from different sources. I find also in the investigation that there has been no fixed formula for representation in parliamentary bodies. It has changed from generation to generation and from time to time, as the conditions of the people and the governments have changed. As I say, it never has been a fixed formula. I shall not follow up the history of that, because it does not seem to reach the question before us upon which we disagree.

The questions upon which we seem to disagree are these: that representation in a parliamentary body should be based upon population, and nothing else, and that any concession from that principle is a compromise solely; and that we should not consider as a general principle and only accept as a compromise representation based upon political subdivisions. Another question that is between us, and as suggested by the proposed compromise coming from Chicago and Cook County, is that a limitation in the Senate, as suggested, avoids the dominant control of the government of this State by Chicago and Cook county. Upon that question we take issue.

Another question is that of county representation. Objection is made to that because it is not founded upon the principle of population, and further because it gives undue representation to the political subdivisions or units known in this State as counties.

Now, with that understanding I am going to proceed with the discussion along the lines that I have prepared. Notwithstanding this question has been debated in this house upon this floor a number of times and for some length of time, we seem to have reached a point where it requires a re-statement of the case. Now, let me as preliminary matter, review briefly the recent history of this question.

For a number of years prior to the calling of this Constitutional Convention, the apportionment of representation in the General Assembly by the formation of new districts under the Constitution of 1870, was an unsettled, and, more or less, a disturbing issue. This condition existed on account of the large increase in population of Chicago and Cook county, and on account of which, in the formation of districts under a new apportionment, the representation of Cook county would be increased, and that of the other counties proportionately decreased, in both the Senate and the House of Representatives.

There were two elements which entered into the failure of the General Assembly to re-district the State in the decennial following the census of 1910; one, the disposition of members of the General Assembly representing districts outside of Cook county, to not increase the representation from Cook county; and the other, the disposition of some of the members from Cook county to not disturb the boundaries of their districts.

Notwithstanding the provisions of the Constitution for re-districting the State after each census of the United States is, in its form, mandatory, the Supreme Court of this State, in the case of *The People vs. R. L. Carlock*, reported in the 198th Illinois, page 150, held:

"The true meaning of said section 6 is, that within each period of ten years intervening between the taking of the census by the government of the United States, the General Assembly of the State may make one apportionment of the State into senatorial districts, and that but one such apportionment may be made in each of such periods."

So that the General Assembly acted within its legal and constitutional rights, and not in violation of the oath of its members, as has been so often alleged.

The matter of apportionment necessarily became part of the work of the Committee on the General Assembly, in this Convention. In this committee it at once appeared that the members from outside of Cook county favored the limitation of Cook county and Chicago in their representation, and the members from Cook county an apportionment based upon population.

To bring the question to a definite issue, and to make clear the positions of the two sides, the committee was separated into two sub-committees, to formulate into proposals their respective positions. From the sub-committee of members outside of Cook county a proposal was reported, creating a Senate of 57 members, with 19 from Cook county and 38 from the other 101 counties, and a House of Representatives giving to each county one representative, and one additional representative for every 50,000 population additional to the first 50,000; which, under the present population, would give Cook county 61 members, and the rest of the State 113 members, with

no other county over three members. This proposal was passed on first reading.

From the sub-committee of members from Cook county, a proposal was reported creating a Senate of 51 members from 51 districts, and a House of 153 members from 153 districts, all based upon the number of inhabitants; which, under the present population, would give to Cook county 24 members of the Senate and the rest of the State 27, and Cook county 73 members in the House, and the other counties 80 members.

Under this situation delegates from Cook county became somewhat incensed, threatened to withdraw from the Convention; and adjournments have been had from time to time to see if some adjustment of the question might be made by informal conferences; and the Convention has been somewhat *in nubibus*.

During the interim, Chicago and some of its citizens and newspapers have been somewhat aroused; editorials, cartoons, news items and interviews have been prolific in threats, ridicule and propaganda. Numerous meetings of associations and clubs have been held and passed resolutions, and have sent forth philippics against the verdant statesmen of down State. We have been accused of everything from Captain Kidd to Jesse James.

A sufficient time now supposed to have elapsed, we are presented with what is called "a compromise proposition" and in the terms of a second ultimatum, and are told that we must proceed with all dispatch to accept or reject, even to setting aside the regular order under the rules.

The proposition offered is, that Chicago and Cook county be limited in their representation in the Senate; that the House of Representatives be apportioned into districts based upon population; that is, that in the composition of the General Assembly, the 101 counties would have a majority of 10 or 15 members of the Senate, in a body of, say, 51 members; that Cook county would now have 48 per cent of the number of members of the House of Representatives, and by the next decade and ever thereafter, over one-half thereof, in a body of, say, about 153 members.

The chief significance of this Constitution will be in the future, and this would mean that Chicago would have a majority of the members of the House, and it is under this condition that we must consider the situation.

The political situation in the State government would then be:

Chicago would have a majority of the voters of the State, and the 101 counties a minority.

Chicago could elect the Governor, the Lieutenant Governor, and all the officials of the executive branch of the government, a majority of the House, and its speaker, the two United States senators, and more than one-half of the congressmen of the State.

Such would be Chicago's direct potential political power; and the 101 counties would have a majority of 10 or 15 members of the Senate, and less than one-half of the congressmen; and if Chicago could make "pliant down State connections" and get 10 of a dozen down State members of the Senate to act with the members from Chicago, Chicago could even elect all the congressmen of the State, because the election of congressmen by districts is simply a statutory provision.

On the other hand, our proposition is that Chicago's representation should be limited in both the Senate and the House, and should never be a majority in either house.

So that the two positions are clearly defined.

The discussion by Chicago, of county representation or the plan of any other representation outside of Chicago, it would seem, is a matter about which Chicago is not very much concerned. If a limitation in both houses obtain, then in such case it makes little difference to Chicago how the down State representation is apportioned. Chicago would have no more and no less in number of members, whether the rest of the State is divided into districts of equal population, or if each county is given one member of the House, or otherwise. In either case it makes no difference in the representation of Chicago, and what plan should be followed by down State would seem to be for the down State to determine.

So that all the declamation from Chicago about the small counties is intended for the consumption of the large counties outside of Cook.

I am advised by members of the General Assembly at the time the resolution for a Constitutional Convention was passed, that it was conceded by at least many members from Chicago and by representatives citizens of Chicago who were in Springfield in an endeavor to get the resolution passed by the General Assembly, that in a new Constitution there would be a limitation upon the representation of Chicago and Cook county, of about the same percentage as now.

During the campaign before the vote of the people upon the proposition for the Constitutional Convention, it was somewhat generally stated as a matter of course that such a limitation would be provided in the new Constitution. Such statements by members of the General Assembly and others may not be very significant or have much weight. Of course they are not controlling. It may be that they were made somewhat like many statements are made now, upon this question. I have heard many very substantial citizens of Chicago in the last few months state that Chicago ought to be limited in both houses; but when I would suggest that they say so to the public, the reply often is, "I would be accused of being disloyal to Chicago, whereas the fact is, my position is the most loyal."

During the campaign before the election on November 5th, 1918, the situation was somewhat definitely outlined on this question, by the publication of a pamphlet by an organization called the "Constitutional Convention Campaign Committee," of which Governor Lowden was honorary chairman and Justice Orrin N. Carter was actual chairman.

The State Executive Committee of this organization consisted of 202 members from different parts of the State, 91 of whom were from Cook county; and 9 of the 91 are now members of the Constitutional Convention.

Senator Lewis, Senator McCormick, Governor Dunne, Roger C. Sullivan, Clarence S. Darrow and Carter H. Harrison were also members of this committee.

This pamphlet, under the caption "Representation of Cook County," says: "The dominant control of the government by one city or county is clearly not to be desired, either in the interest of that city or county, or of the State."

Can you get any plainer Anglo-Saxon language than that? Another quotation:

"And the problem presented is one that cannot be evaded either by Cook county or by the rest of the State."

Of course this pamphlet is not binding upon any delegate; but it does come to the delegates and to the people of this State, as the deliberate judgment of these representative men, that "the dominant control of the government by one city or county is clearly not to be desired."

So you see that we are relieved from showing or proving that Chicago or Cook county should not dominate the State government; that is conceded. It is conceded as a fact; and there is nothing more settled than a fact.

We are not required to give the reasons or conditions which make it not desirable; that they exist is granted. Any basis or plan of representation which makes it possible for Chicago or Cook county to control or dominate the State government, is to be rejected. Then the question left open is, What plan shall be adopted to avoid the dominant control of the government by Chicago or Cook county?

If you base the apportionment of representation in the General Assembly solely upon the number of population, then Chicago and Cook county would now have 48 per cent and soon over one-half of the members of the legislature, and therefore would absolutely dominate the State government; so that it must be conceded that that rule cannot be followed. Some other plan must be adopted that will not give Chicago and Cook county "the dominate control of the government."

The proposition now offered by Chicago is always accompanied by the statement that it is a "compromise." To call it a compromise is a misnomer; there is no compromise offered in the proposition. To compromise

is to yield some right. If Chicago's *right* is to have a representation in both houses, based upon population, then it is a compromise. But, you never expected to sustain such an alleged right; you cannot support a claim for such a right by the application of any principle of good government, by the precedent of the government of any state or nation, or by the judgment of any statesman—outside of this hall. You must concede that any plan of apportionment that will give Chicago the dominate control of the State government is not a political right of Chicago.

To avoid that, you must at least concede that a limitation in one house is necessary, not as a compromise, but as essential in the application of the principle that "the dominate control of the government by one city or county is clearly not to be desired, either in the interest of that city or county, or of the State."

If you concede that principle, you must, as a matter of course, concede that which is necessary to make the application of the principle effective.

Your position is that the limitation in the Senate will permit the application of this principle, and will prevent Chicago from having "the dominate control of the government." We insist that it will not. This is the issue upon which we join, and if there is to be a compromise, this is the issue upon which we must compromise, and that would seem to be as to the extent or manner of the limitation in both houses.

Mr. Bryce, in his late work on "Modern Democracies," says:

"In politics, it is not false principles that have done most harm; it is the misconception of principles in themselves sound, prompting their hasty application without regard to the facts of each particular case." That is what has done most harm in politics and in government.

It will be well for us to keep this statement in mind in the consideration of the principles involved here.

I will concede that the principle of representation based upon population is sound, in itself; but following the statement of Mr. Bryce, its application "without regard to the facts of each particular case" is a misconception of the principle; and Justice Carter and his associates so evidently considered it.

But by the alleged compromise you aver that under it Chicago will not have "the dominate control of the government," and that with a limitation of Chicago in both houses, the 101 counties, with a minority of the population, will have "the dominate control of the government."

We deny both propositions.

This is not simply a question of the dominate control of the legislature, but of the "dominate control of the government." Under the suggested conditions, let us cast up the powers which tend to "the dominate control of the government."

Chicago would have:

(1) The Governor with the veto, a power equal to one vote less than two-thirds of the votes of both the Senate and the House;

(2) The Governor with his power of official patronage and the influence of his army of appointees to the various executive boards executing the functions of the departments, the State Militia and the State institutions, and the influence of which is very great in controlling legislation;

(3) The Lieutenant Governor, and as such President of the Senate;

(4) The Secretary of State, Auditor, Attorney General, Treasurer and Superintendent of Schools, with all their vast powers, through patronage and otherwise;

(5) The compact body of a large number of members representing one political unit with a unity of interest, prompting a unity of action, resulting in a unity of strength;

(6) Its great economic, financial and public press powers by which it can and will influence, to a large degree, the political action of the State in all its branches.

(7) The Speaker, with his great power, if the limitation is in the Senate alone;

(8) The power to elect both the United States Senators, and more than one-half of the Congressmen; and thereby extend its great arm of

power into many communities, through the political influences and patronage of the Federal Government.

The 101 counties would have:

(1) A majority of a few members in one house, with no county of over two or three members, scattered over a large area of territory, with diversified interests, with no unity of community interest, and in no way forming a class or group; without a press covering the State; with only local financial and economic influences, and with no state and some Federal political patronage; and with a limitation in the Senate only 60 counties with no representation.

Place upon one platform of the scale all of these powers of Chicago and Cook county, and on the other the majority of a few members of one house by the 101 counties, and where does the index of the power to dominate the control of the government, point?

So that with a limitation in one house, Chicago would have "the dominate control of the government."

The "Chicago Tribune," in an editorial, claims another power. It says: "Give the city an imperative reason"—and it always has had an imperative reason—"for controlling the State, and its politicians easily will make pliant down State connections, which will turn the State Capital into a committee room of the city hall. The Governor with his veto is one-third of the legislature, and with what Chicago representation may be in the assembly, the State will be dominated in term after term." That is the situation. They ask how. They have always done it and they will do it. "Pliant down State connections," it seems, is a great Chicago asset.

With a limitation in both houses, you see it is not at all certain that Chicago would not be able to control the State government; and it is certain that the other counties would not have the dominate control of the government.

It is said that our position violates that principle of government of the people, by the people, for the people. Such a statement is simply begging the question. I invoke the same rule; but insist that you will not and cannot have a government of the people, by the people and for the people when Chicago shall dominate the executive and the legislative, either in one or both houses, of the State government; but on the other hand, you will have a State government of Chicago, by Chicago and for Chicago.

It is said that our position is in violation of the principle that all men are created equal. The statement is simply begging the question. I invoke the same rule. The political existence and government of a state are a means to an end. People are organized, and very properly, into political, social and economic groups; they have group interests and group organizations; and to give one group the dominate control of the government is to oppress the other groups and destroy the equality of rights and opportunity of the individual guaranteed by the Declaration of Independence.

The Declaration of Independence was the declaration of the struggling colonies oppressed by a privileged and dominating class and group.

It is said that our position violates the principle that the majority of the people should rule. We deny it. The rule of the majority of the people is not obtained under the given conditions when a majority of the people are organized into one political subdivision, of one unit of the government; but you will have the rule by representatives selected by a majority of the electors of the political subdivision, and not by a majority of the electors of the State; and you will have the rule of the majority or plurality of a group or class, and which will be a minority of the people of the State.

The Declaration of Independence was the revolt of a minority suffering under the despotism of a majority group.

The General Assembly is limited in its powers by the Constitution; and the Governor can veto its legislation, the courts can declare its acts void, and one house can defeat the acts of the other.

These checks and balances, which are so carefully provided, are limitations upon the powers of the majority, and are accepted because it has been learned from experience that they are vital to the welfare of the people.

When a limitation is imposed under the given conditions upon Chicago and Cook county, checks and balances are thereby provided by which one group, controlled by a majority or plurality of the group, cannot dominate the control of the government.

But even if our position were in violation of the rule of the majority, the application of the rule "without regard to the facts of the particular case" would be a danger to the State, because the history and experience of mankind teach that a dominating power in government, given to a class or group of people, will not be able to control or curb the selfishness inherent in human nature.

If democracies are to endure, they must live by the principle that no class or group or political subdivision shall rule.

If you invoke the strict construction of the rule of the majority, then the logical plan would be to elect the members of the General Assembly at large, or to nominate the members of districts and elect them by a vote of the whole people, as presidential electors are chosen.

It has been asserted time and again that there is no historical basis which justifies the limitation of Chicago; and that the principle of representation based upon population is a fundamental one, not only in Illinois constitutional history, but in the Ordinance of 1787.

This ordinance provided, of course, that there should be "a proportionate representation of the people in the legislature." This has never been held to mean, in theory or practice, that representation should be based solely upon the number of population.

The Enabling Act of Congress of April 18th, 1818, for the formation of a Constitution and State government in Illinois, provided for the calling of a Constitutional Convention consisting of 33 delegates, with two delegates from each 12 counties, and three from each of the remaining three counties, there being fifteen counties in the State at that time.

In the Constitution which was adopted in 1818, the General Assembly was constituted of fourteen Senators and twenty-eight Representatives from the fifteen counties, and each county, except Johnson and Franklin counties, was given one Senator. Johnson and Franklin counties were made into one senatorial district and given one Senator. Each of six counties was given one Representative, five counties were given two Representatives each, and four counties, three Representatives each.

By the census of 1820, Johnson county had a population of 843, and Madison county had a population of 13,550. In the Constitutional Convention, Johnson county was given two delegates, and Madison county three delegates. Madison county was given 50 per cent more delegates than Johnson county, yet Madison had 1600 per cent more population.

Gallatin county had a population of 3,155 and Madison county 13,500, and each had three delegates. And so on.

In the Constitution of 1818, districts were defined and an apportionment was made. Gallatin county had one senator and Madison county had one senator. Madison county had three representatives and Gallatin county three representatives. Five counties, with a population of 30,562, under the census of 1820, were given 13 representatives; and 10 counties, with a population of 21,270, were given fifteen. A majority of the counties with a minority of the population had a majority of the representatives. The same was true of the Senate. So that in these two representative bodies we had the application of the principle of county representation and representation based upon population, with the principle of county representation predominating.

So that the proper construction and meaning of the phrase "proportionate representation of the people in the legislature" are best indicated, and in fact determined, by what Congress and the State of Illinois did in 1818, the first time they acted under the Ordinance of 1787.

In the Constitutional history of the State, there has been no special reason for departing from representation based upon the number of population; there was no special reason for departing from it in 1870.

At that time Cook county had 13 per cent of the population of the

State. That it should have a majority of the population in the future was probably not thought of; but now we have a situation where it is a misconception of the principle to apply it, solely, in the particular case. For the good of the whole State it must be modified and yield to that higher principle that no city or county shall have the dominate control of the government, either in the interest of that city or county or of the State.

I will concede that the counties outside of Cook county should not have "the dominate control of the government." For over one hundred years the 101 counties have had a majority of both houses, and have never had or exercised "the dominate control of the government"; but, if either is to have such control, it is far better for the State that the 101 counties over a large area of territory, with diversified interests, with many centers of political organization and with no unity of community interest, should have it than one county or city.

Chicago is demanding in the government of this State, a political power not held or exercised by any city, county or political sub-division of any State in this nation, or by any state in the Federal Government.

I do not purpose to go into an examination of the apportionments in the different states—that has been done heretofore; but I want to place this statement in this record, that from an examination of the Constitutions of all of the States, three rules for the apportionment of representation can be defined, and have in fact, been followed:

First—The limitation in both houses, of a city or county approaching one-half of the population of the State;

Second—The limitation in one house, or both houses, of cities or counties of large population, but not approaching one-half of the population of the State;

Third—States in which no limitation is imposed in either house, have no city or county with a large population as compared with the rest of the State.

It is something of a surprise to me that these three rules are so clearly defined. One of these three rules is applied, and always applied, under given conditions.

There are four states in which the first rule is clearly applied; there are twenty-four states in which the second rule is applied; there are twenty states under the third rule, and sixteen in which apportionment is based upon population solely, or the number of voters; and in no one of the sixteen was there a city or county with a population of over 20 per cent of the population of the state when the constitutions were adopted.

The States of Illinois, Minnesota, Michigan, California and Wisconsin, whose constitutions follow the third rule, seem to be exceptions to these rules; but they are not.

When the Constitution of 1870 was adopted, Cook county had about 13 per cent of the population of the State, and came under the third rule; but under present conditions, comes under the first rule.

When the present constitution of Minnesota was adopted, in 1857, Minneapolis and St. Paul were mere villages, but Minnesota now would come under the second rule.

When the present constitution of Michigan was adopted in 1908, Detroit was about 11 per cent of the population of the state, whereas it now has about one-third of the population.

The constitution of Wisconsin was adopted in 1848, but Milwaukee now has about 20 per cent of the population.

California's constitution was adopted in 1879, when San Francisco was a small city and Los Angeles a mere village; but now California would come under the second rule.

So you see that our position is in accord with the principles as applied by the founders of this republic, and in accord with the subsequent history of the states of this nation.

It has been said time and again in this hall, on the platform, in the Chicago newspapers, and elsewhere, that the pending proposition was un-

precedented in the history of this country, whereas the fact is that in principle and practice there is no precedent for any other proposition.

I know of no pre-eminent statesman in this country whose duty it has been to deal with this question, who has not approved of the principle of apportionment which we invoke here.

We are told that Mr. Root and other eminent statesmen of New York were prompted by partisanship and personal ambition. Of course there is no proof of such a charge. I hesitate to believe that such men would violate their consciences and oath of office by such unscrupulous selfishness. I rather take it that it took a great deal of courage for those citizens of the City of New York to say to their fellow citizens: "For the welfare of the state and its better government, we ought to be limited in the state legislature; our mandate is from the state; our oath is to the state; our duty is to the welfare of the state." They were big enough to follow their own best judgment, and with courage enough to choose between state good and local ambition.

In the constitutional convention of 1915, the limitation of New York City was supported by twenty-four of the sixty-six delegates, residents of New York City, seven of whom were members of the Democratic party; and the limitation in the constitution of 1894 was approved by a majority in New York City, of upwards of 50,000.

Much ado is made about county representation. In the last General Assembly and under the apportionment of twenty years ago, there were thirty counties which did not have a representative in either Senate or House. Base the representation in the House upon the population, under the present conditions, and there would probably be sixty or more counties without representation.

Twenty-four states have county representation and many of them have it in both the Senate and House. All of the original thirteen states have county or town representation.

At the time our forefathers were founding this republic, all of the original thirteen states had county or town representation in both houses; and eight now have it in both houses. So that we do not "appear to know more about such fundamental principles than did the founders of this Republic." Their principles are our principles. They believed that every political subdivision should have representation in both the State and the Federal Government.

The State created these counties. They are a political unit; the political, social, legal, business and economic life of the people, for the most part, center in the county; through its account is made to the State for revenue; its people are loyal to the State's demands; and now is the State going to say that because its people are not segregated in large communities, they shall have no voice in the government of the State?

To till the soil and raise the food that the State may live, these people of the counties must be scattered. Are they to be forced to move to the city that they may be represented in their government?

The counties do not want to rule the cities; neither do they want the cities to dominate them in their political rights. They are now being dominated in their economic rights. Place them in political servitude and you will soon reduce the tiller of the soil to the class of the European peasant.

Every county in this State has a liberty-born right to be represented in the State government, and by one whom they may select and whose life they know.

But it is said, in the Chicago pamphlet, that "Those who urge representation upon the basis of geography rather than upon the basis of population as a fundamental principle of American constitutional government, appear to know more about such fundamental principles than did the founders of this republic."

Let us see.

Sixty-five delegates from the thirteen states constituted the Convention which formulated the Federal Constitution of this Nation. We call it the immortal document. Bejewelled with its Eighteenth Amendment it will yet illumine the world.

The Constitution was adopted by a majority vote of the states, each state having one vote; and it provided that if there were a failure to elect a President by electors, he should be elected by the members of the House of Representatives, each state having one vote. And Thomas Jefferson was so elected. That Constitution, adopted by the founders of this republic, gave to each state two Senators, and to every state a Representative, and a majority of the states had less than one-third of the population. Seven of the states had a population of 1,023,535, and six states 2,614,409, over twice as many as the seven.

Based upon the census of 1910, twenty-five states, with a population of 18,105,338, had fifty votes in the Senate; while twenty-three states, with a population of 73,435,859, had forty-six votes in the Senate.

In the last election of President, fourteen states with fifty-eight votes in the Electoral College, had a population of 5,614,732, and Illinois, with a population of 5,638,591, had twenty-nine votes. Yet you call up the shades of the fathers of our country.

A few days ago, the "Chicago Tribune," in its cartoon by McCutcheon, pictured the shades of Washington, Jefferson and Patrick Henry, horrified at the suggestion of such a great wrong; but the cartoonist did not know that these great men formulated a constitution for the state of Virginia in which the basis of representation in the General Assembly was the county, and not the number of population, and in which each county, regardless of the number of population, had the same number of Representatives in the House of Delegates; and that in the Constitutional Convention of Virginia, in 1829, John Marshall opposed a representation based upon population.

New York State has always had county representation. Tammany Hall, of course, wanted to eliminate it. In that state, eight counties with eight Representatives, have a population of 555,681; and eight other counties with a population of 160,291, have eight Representatives. Thirteen counties with a population of 7,026,826 have seventy-four Representatives; and forty-nine counties with a population of 3,433,354, have seventy-six.

In Pennsylvania eight counties with a population of 481,691, have eight Representatives, and eight other counties with a population of 80,426, have eight Representatives. You see. I am citing these eight counties, because, you will remember, they cite eight counties in this Chicago pamphlet about the State of Illinois, whereas there is greater discrepancy in these other states.

Ohio's last constitution was adopted in 1912, and has county representation; and the constitution did not provide that each county shall have one Representative until 1903. Eight counties in that state with a population of 541,546 have eight Representatives; and eight other counties with a population of 122,743, have eight Representatives. Eighty of the eighty-eight counties ranging in population from 12,000 to 93,000, each have one Representative.

Four counties in Georgia, with a population of 467,634, have 12 Representatives, and twelve other counties with a population of 54,131, have 12 Representatives.

The plan of county representation will not, in the future, take from the large counties the number of members they would have based upon the population of the whole State, but would add to the number. Cook county would yield a part of its representation to a Representative from each county.

County representation is founded upon well recognized principles of representative government:

That every political subdivision should have some part in the government;

That the rights and privileges and responsibilities of government should be distributed to all parts of the State;

That the spirit of mutual understanding between all sections and interests should be developed;

That the training of all citizens in self-government should be secured.

To deprive many counties of any representation is to sacrifice these well established principles of representative government.

Based upon population, in thirty years 77 counties of this State will be without county representation. Chicago's foreign born population is 36 per cent, nearly one million, more than one-half of whom are non-English speaking people; and thousands are coming to our shores as fast as it is permitted. For the most part a heterogeneous mass, ignorant of our institutions, with no sense of civic duty, pliant in the hands of disreputable politicians; I say this not in criticism; it is reckless folly to close our eyes to such conditions.

It is proposed to deprive seventy-seven and more counties of representation, and bestow it upon this heterogeneous mass upon the basis of mere numbers.

I am concluding now, gentlemen. So that we think we have the right to conclude that safe, sound and equal representation is more nearly obtained when the rule of population is combined with that of territory and political subdivision, and with a limitation upon a county or city with a major part of the population of the State, in both houses; and when each county is given at least one Representative; and that such a provision will provide checks and balances for the best government of the State, and an "equitable counterpoise" between the city and country.

I am not conscious of seeking power for the counties. I know nothing about the art of getting office. I do not seek political preferment; I never have been and never expect to be a member of the General Assembly: I have some financial interests in Chicago; I have many friends who live there, whose kindness is always true and delightful.

In reaching a conclusion on this question my endeavor has been to seek the principles of good government, to study the history and experience of other states, to give heed to the judgment of statesmen, to be mindful of the motives and dispositions of human nature, and to apply these to the "particular case."

Facing a like situation, Elihu Root said in the Constitution Convention of New York:

"I, for one, New Yorker as I am, beholden for almost thirty years of kind treatment of that city, love too dearly the state of my birth and life to contemplate such a result with equanimity." (Applause.)

Mr. TRAUTMANN (St. Clair). Mr. President.

THE PRESIDENT. The delegate from St. Clair, Mr. Trautmann.

Mr. TRAUTMANN (St. Clair). Mr. President, I would like to ask if the gentleman from Schuyler (Jarman), would yield to a question?

Mr. JARMAN (Schuyler). Yes, sir.

Mr. TRAUTMANN (St. Clair). I have listened with a great deal of interest to your discussion and conclusions as to what would happen if the City of Chicago or Cook county would control the both houses of the General Assembly and the State officers, Senators and Congressmen, etc. I would like to know if it is not possible under this plan in the next forty or fifty years for Cook County to get control, by virtue of its increase of population being greater than that of the down State, to get control of the House of Representatives, under this plan?

Mr. JARMAN (Schuyler). It think it is.

Mr. TRAUTMANN (St. Clair). Well, if that is true, then why not, in order to not take any chance of this great calamity happening to the people of the State of Illinois, why not limit them strictly to one-third in the House, as we have done in the Senate?

Mr. JARMAN (Schuyler). If I had my own way, that is what I would do.

Mr. TRAUTMANN (St. Clair). Now, one more question——

Mr. JARMAN (Schuyler). But when you take a lot of men together in a Constitutional Convention, as Benjamin Franklin said in the Federal Constitutional Convention, men have got to give and take, to reach a conclusion.

Mr. TRAUTMANN (St. Clair). Now, I want to ask this other question. As you know, during the past ten years every speaker of this House has been a Chicago representative; every one of them during the past ten years, McKinley, one term; Mr. Shanahan, three terms, and Mr. Dahlberg, one

term. You also, perhaps, remember that from 1913 to 1917 we had a Cook county Governor. During that same period we had a Cook county Lieutenant-Governor. We had a Cook county Auditor of Public Accounts, and during part of the time we had a Cook county Secretary of State, so that practically all of the State officers were from Cook county. Both presiding officers over the General Assembly were from Cook county, which is the condition that you say might happen if we do not pass this county representation plan sometime, in the future. I would like to know if you can trace any great calamity that happened to the people of Illinois during those four years, directly responsible to this condition. I might admit that there were some calamities from 1913 to 1917, but were they traceable to this condition and situation?

Mr. JARMAN (Schuyler). Now, it is just this way: The evils of power never are manifested until they have the absolute power. Chicago and Cook county never had the power by population or vote to do that, and it dared not exercise any undue power, in the face of that fact. (Applause.)

And that is the history of mankind. Why do we separate church and state in government? Because if you give the church the dominating power in government, though controlled by saintly men, they will oppress and persecute the people, to enforce their own dogmas. That is true. But they won't do it unless they have the power; and any other group of men or any other political sub-division will do the same thing if they have the absolute power; and the evil power is not developed or not manifested until they do have it. Anything else?

Mr. TRAUTMANN (St. Clair). You mean they do not do it then because they realize that it is only temporary power?

Mr. JARMAN (Schuyler). Why, absolutely. They went in there by the grace of the people down State, as well as Chicago, and if they exercised any undue power, why they would have to account for it. Is there anything else?

Mr. TRAUTMANN (St. Clair). No, I just wanted to ask those two questions. Thanks.

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I move that we now recess until 2 o'clock this afternoon.

(Motion prevailed.)

Whereupon the Convention took a recess until 2:00 o'clock p. m. Tuesday, January 31st, 1922.

2 O'CLOCK P. M.

The Convention met pursuant to recess.

The President in the chair.

Whereupon the Convention continued on the order of special orders of the day.

THE PRESIDENT. The Convention will please come to order. The business is the continuation of the consideration of section 7 of the legislative proposal. Judge Mack (Hancock) is recognized.

Mr. MACK (Hancock). Mr. President and Fellow Delegates of the Constitutional Convention:

I have not heretofore made any statement whatever with regard to the matter now before the Convention. It was not my desire to make any such statement, Mr. President, but having consented to say something upon the subject, it will be but a few words, because I can assure you, sirs, that I would far rather vote than speak upon this proposition now before the Convention.

Mr. President, if it may not be impertinent or improper, I want, in kindness, in candor, and humbly as I may, to address much of what I have to say to these very honorable gentlemen seated upon my left, for whom I have the most profound respect. I feel, sir, that in regard to an essential element of the Constitution of the State of Illinois and a matter that is still

to come, we have differed conscientiously, and that we have met at a point where we must each of us assert our respective opinions, but, sir, after having considered this matter and listened for weeks to the various propositions embodied in this Constitution, I find myself in a position where I must say to you and to these gentlemen seated upon my left, to whom I want to address much of my remarks, that I have, Mr. President, taken my politics from Alexander Hamilton and my theology from the Apostle Paul, and, sir, having thus taken my politics I desire to call the attention of this House just for a moment to a brief paragraph which gives my position today, that is, gives a suggestion that comes into my mind at this time; and I want, if you gentlemen will excuse me—I will read from nothing else except from this wonderful immortal man, who sleeps today in the shadow of Hermitage Church in the Greater New York—but I do want, sir, to just read a word from him upon this wonderful subject of making a Constitution, and to take, sir, a suggestion which comes, Mr. President, from ancient times and which may be of some interest to us.

On page 223 of the Federalist, from Madison, I quote the following:

"It is not a little remarkable that in every case reported by ancient history in which government has been established with deliberation and consent, the task of framing it has not been committed to an assembly of men, but has been performed by some individual citizen of preeminent wisdom and approved integrity."

Now, gentlemen seated on the left, I want to ask you this afternoon if we do not begin to find ourselves in a position where we wonder whether or not this task ought not to have been committed to a single man? I followed these deliberations, I have thought of this earnestly, gentlemen, and seriously, and I come here this afternoon for the purpose of adding to the wonderful speech made this morning by the gentleman from Schuyler county (Jarman) a few plain, homely suggestions that occur to me; not upon the figures, not based upon the history of what has occurred here in this legislative body before us, but based upon general ideas that come to me, and I want to make a suggestion from those ideas as briefly as I can.

Gentlemen from Cook county seated here upon the left, let me make to you this suggestion, and may I have your attention, because I am talking seriously, I am talking earnestly about this matter. Now, let me know as to whether or not I am speaking the real facts when I come to you with the suggestions that I am now making. Let us confer together for just a moment about this matter.

We met here in this Convention in the early part of the year 1920. It was admitted, gentlemen, that the paramount things in this Convention were to be the question of limitation of Cook county and the matter of revenue. I have not heard it stated yet here, gentlemen, to be true, but I say to you that as you travel along in your deliberations you will find these two propositions are linked together and cannot be separated.

Gentlemen, when we came into this Convention, the matter of courts came up, and we said to you to frame your courts in Cook county as you desired them; that shall be left to you. The question of the home rule in Cook county came up. We said, "We will leave that to you gentlemen, that is in your hands"; and, Mr. President, if I am not mistaken, up to this hour that proposition, gentlemen, has not been worked out. Then came the question of limitation of Cook county, gentlemen, and where do we find ourselves? The honorable gentleman seated yonder (Jarman) who made that splendid address this morning, and who has been debating this matter with my most esteemed friends sitting before me from Cook county, stated to you this morning, gentlemen, that the Supreme Court of the State of Illinois had held that it was not mandatory upon the legislature to make the apportionment but, gentlemen, even if that were not true, I appear before you this afternoon with this suggestion, and it is one that is worthy of the most careful consideration, and the suggestion is this:

In 1818, gentlemen, a Constitution was passed; it was adopted by the people. In 1848, another Constitution; in 1870 another Constitution. Now, gentlemen, may I have your attention just a moment? You say it is unfair, you say it is unreasonable, you say this vote of 64 votes against the 38

votes held by you is being improperly used if it is used to carry out the same method and manner of enforcing the laws of this State, and the apportionment that has been carried out heretofore.

Now, gentlemen, when the Constitution of 1870 was made, in that Convention where such men as Bushnell and other great men of the great State of Illinois met, now I want to ask you gentlemen from Cook county whether it is true that when these men made that Constitution that they had in mind the tremendous growth which might come in Cook county and in other cities of this State? You say that it is a violation of the principle of the Declaration of Independence. It is a violation of the principle of human rights. You say that the principles which were laid down in the Declaration of Independence and defended on the fields of the revolution require that a city in the northeast corner of this State should dominate for all time to come the policy of the great State of Illinois. You lay that down as a fundamental proposition. Now, let us reason together on this a moment. Just let us reason together about that proposition. As men, some of us as lawyers, let us consider that for just a moment. The proposition, gentlemen, is just this: Providence in the natural course of human events has placed sixty-four men in this Convention, and into their hands is carried the power that came down under the Constitution of 1870, the power to hold the representation and the majority thereof down in the State of Illinois. The fundamental principle of government which I shall come to in a moment, gentlemen, which comes from the great authority for all government in the United States, that fundamental principle to which I shall refer just in a moment, gentlemen, we believe, and the down State believes, was entrusted by our ancestors and those who wrote the Constitution of 1870 to our hands, and we find ourselves, gentlemen, in a position where our ancestors and the Almighty have left in our hands the power to come into this Convention and to continue for all time to come—what? The domination of one section, the domination of one faction? No. The rule of the empire State of Illinois, stretching away out here to the Mississippi and away back here; to continue in the breadth and length of that great State, reaching from the Wabash to the Mississippi and from the Lakes down to Cairo; to continue in that mass of people, spread all over the State of Illinois, the domination in the future of the great State of Illinois.

And under the principle that I am going to lay down in a minute, which to me is fundamental, basic, essential and immortal and cannot be struck down, we cannot, gentlemen, surrender that which is committed into our hands and has come to us from the Constitution of 1870.

In 1830 an extremely interesting Frenchman traveled over this country, and he wrote, Mr. President, a book, "Democracy in America," and he was a level-headed Frenchman, and he noted the fact that although in certain places there were laws passed, yet if the sentiment of the people was against those laws, they could not be enforced, and he called that an appeal from the law of State and the law of mankind.

Now, gentlemen, if you even say, contrary to the authorities suggested by the gentleman yonder (Jarman) that there is a duty to apportion this State, that it must come; if you even go to the extent taken by one of your most able members, to the effect that if this condition shall continue year after year, eventually by revolution, practically, as the gentleman suggested, you will have a Constitution submitted to the people of the State of Illinois and will have it voted upon; even if you take that position, gentlemen, I say that as representing the great mass of people of diverse interests and purposes scattered all over this empire State of six and a half million people, we come here this afternoon, gentlemen, unpleasant as may be the fact, entrusted by the people of that great State with that authority, with that responsibility, with that duty, and we cannot shirk it. We come to you with kindness; we come to you saying we believe that we are doing our duty, and we insist that we are not violating either a Constitutional principle or the Declaration of Independence.

Can it be possible, gentlemen, that the men that founded this great republic; that Thomas Jefferson, when he wrote the Declaration of Inde-

pendence, so often referred to in this House and in the Chicago newspapers; can it be possible, gentlemen of this Convention, that when he wrote that immortal declaration that the declarations contained in that comprehended that a city of nearly three millions, confined within a narrow compass up there by the lake, should seize the reins of government in the year 1925 or 1930 and rule the broad State of Illinois forever more after that time; that the population contained within that narrow territory, so shaped that it is almost possible for one master mind to control the constituent elements there and cast them into a legislature or State convention in a solid block, to smash in a thousand pieces the liberty of the people down State; is it possible he meant that?

Gentlemen, there is not a man here, there is not a man seated on this side of the House that believes it means that.

Now, gentlemen, I am going to call your attention to just one proposition, one single proposition from the master mind of this country, and I am going to argue that proposition, and then I am going to leave you, and may I ask that in presenting that to you I may have your most careful attention, because to my mind it contains the very core and pith and marrow of this very fight.

As I stated, gentlemen, I have since my boyhood taken my politics and my civil government from Alexander Hamilton. Turning to the Federalist, to which I ask you gentlemen to turn your minds for just a moment, we have discussed that topic which has been the topic of all the centuries in the popular government, and what is that? That is the tyranny of the majority, the theme that has vexed men from the time the sun first rose in the heavens and civil government was first instituted; the question of the domination of a faction or sect in a great government by which the minority were ground down under the heel of despotism.

Now, gentlemen, if I may have your attention for just a moment, I will read this, and ask you to consider it. I call your attention to the Federalist, to a statement made by Alexander Hamilton away back at the time that the National Constitution was being discussed, and when all these principles were up; the time when there met in Philadelphia one of the most wonderful bodies of men that ever assembled, and the time when the master convention of all conventions assembled, that convention down there in Virginia where giants contended together for principles, which produced a constitution which has been declared the wonder and the admiration of all the centuries.

Now, gentlemen, may I have your ear for just a moment? This is what Hamilton said:

"When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and form of popular government, is then the great object to which our inquiries are directed." This was away back in 1787. "By what means is this object to be attained? Evidently by two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority having such co-existent passion or interest must be rendered by their number and local situation unable to concert and carry into effect their schemes of operation." Continuing:

"The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other."

That principle of government laid down by Alexander Hamilton is as true now as it was when it was written. It is essential, it is basic, it is at the very foundation of the Constitution which we are making, and if we fail in this, the whole Constitution has failed.

We stand here, gentlemen, facing the fact that the destinies, the hopes, the aspirations of the millions yet to come in Illinois—and it is not a question as to whether we live in Cook county or in the great City of Chicago or on the broad plains of the great State of Illinois—we are here with a duty, a mighty responsibility confronts us, and we cannot get away from that.

Now, gentlemen, whether pleasant or unpleasant, it behooves us to tell the truth. If there is one time when a man should absolutely and unequivocally speak the truth and be counted with his fellow-men, it is when men like us assemble together with the mighty responsibility of fixing the destinies of millions yet to come, and that being so, excuse me if for just a moment I dwell upon the conditions which must not only exist in your great city, but have existed in every great city throughout the world from the time the morning sun first rose in the heavens, and show what the condition has been.

Going back to this same work written by this master Frenchman in 1830, at a time when Philadelphia was only 180,000, and New York City only 200,000, we find this statement contained in that immortal book, which is still read with wonder and admiration by the scholars, although it was written years and years and years ago. And what is that statement? In that book he says, sir, that the rock upon which the American republic will split and go down will be our cities and their population.

Looking up, Mr. President, to Chicago, I find a population such as is contained in other cities of our Union. I am not here to cast the least aspersion or reflection upon it. These gentlemen that have come down from Chicago have been gentlemen that we admire and that we meet with pleasure. We love these men, because they are American citizens from the ground up. They carry with them what they believe to be a duty and an obligation to two million seven hundred thousand people in Chicago of trying to force the rule of that county upon Illinois for all time to come. We believe that is wrong, and we can lock horns in that, we can cross swords without any bitter personal feeling.

Gentlemen, we had just as well look the truth in the face. When we met here the last time, the third day of January, on that very day there appeared in the Chicago Tribune, one of the great dailies of the State of Illinois, an editorial, Mr. President, that I hold in my hand, and I would not begin to read that editorial. I am not even expressing my opinion as to the truth of the statements contained in that editorial. It would be wrong, it would be wicked, sir, for me to come before you upon this floor on this occasion and try to arouse the passions or prejudices of those throughout the State of Illinois that live outside of Cook county by reading that editorial.

Shortly after that, gentlemen, there appeared another editorial, and those two editorials would make wonderful reading together. In the first editorial everything that could be said was said concerning economic breakdown and general political misery in Chicago. In the next editorial there was a declaration, gentleman, that the Declaration of Independence must prevail, and that the principles of that immortal document must be followed—written by the same pen, on the same paper, sent to the same people, that declared that this very population whom he said had been trampled down under foot and had been driven to political degradation and to economic ruin, that that same people who had allowed themselves to be enchained hand and foot and bound and tied in the chains of a despotism worse than ever existed before (because no despotism is like the despotism that exists in a republic, when it comes)—that that people should be allowed to dominate the political future of the great State of Illinois.

Now, gentlemen from Cook county, please understand me. please do not mistake what I am saying. I am not declaring the truth of one word in

that editorial. I would not for the world fling myself, as an outside citizen, into the conflict that rages in Cook county at present. I would not think of doing it. I am not speaking one word pro or con upon the truth of the terrible declarations contained in that editorial, but I am saying that the paper that contained the editorial of January 3rd could not with propriety and good judgment print the editorial of a later date calling attention to the immortal principles of the Declaration of Independence, and apply those principles so as to allow these same people, trampled down in the mire of political degradation, to dominate the great State of Illinois.

Now, Mr. President, before I close, allow me to put myself on record. I live in the State of Illinois. I was born in the State of Illinois. It is a wonderful state to live in, and here I expect to remain and here I expect to die, and my ashes to rest until the Judgment Day; and living here, I say I am proud of the great City of Chicago. The grandeur of her works are beyond comprehension. She is one of the most wonderful cities on this earth; and yet, admiring as I do her commercial supremacy, knowing that such a city must be composed of all the different elements, from the bottom clear up to the supreme peak and summit, all that must be congregated within the limits of a city of two million seven hundred thousand, I appeal to you, my friends and associates and every man here who is not bound by obligations to a county and comes from down State, to plant his feet squarely upon this same Declaration of Independence with me, and while, sir, the law requires a reapportionment of the State of Illinois, to come with me and to appeal from the law of the civil State to the law of mankind, and to declare here this afternoon, gentlemen, that this population, spread out over these prairies, not bound together into one faction or sect or common interest; which never has been charged by you gentlemen with having perpetrated, during the time that they have been in control, a single wrong or a single injury, I appeal to you gentlemen from down State to join with us in declaring that the principles of this Constitution which we carry in our hands and with which we come before you today, shall be maintained, and that the laws of destiny, the laws handed down to us by descent, and the principles written in the immortal Constitution of 1870 by these wonderful men, shall be preserved, which we have no right to surrender, and that we cannot surrender without failing to do our duty.

In closing, Mr. President, let me say one more thing, and that is this, that I absolutely deny with the honorable gentleman sitting yonder that what I have suggested departs one jot or one tittle from a free moral judgment, departs one single inch from the rule of the people.

As someone has beautifully and wisely said, human liberty sprang to birth in Sunny Greece; it tarried a while in Italy; it rested for a while on the snowy breast of the Alps, and landing finally on the iron bound coast of New England, planted the starts of glory there. That liberty carried by the men that came in the Mayflower and the men that settled in Virginia, must still exist today.

One more thing, gentlemen, and that is this. They say it is grossly unjust to allow a small county to have a membership in the legislature. If I am mistaken, gentlemen, you can correct me. I turn to the general principles involved in representation, and find it is one of the commonest things in the world to get representatives from small fractions or small portions of the body politics; and gentlemen, these old county lines are fixed by association for years and years back. They cannot be changed, they should not be changed, and there is no reason why the statement contained in this proposition so ably defended by my friend here from Schuyler (Jarman), shall not prevail, why every county should not have a representative; and nothing could be more just, more fair than the addition of one for every 50,000 or major fraction thereof; and I say to my friend here who asked a question in relation to this thing that if in time to come it shall occur that the method laid down in this Constitution which we have written shall produce, in the concurrence of events, an increase of population and power in Cook county which we do not now comprehend, and if he sees in that anything of menace to the great people of the State of Illinois, that it is his duty as a lawyer and a member of this body to call attention

to the fact and then to join with us in any decent, honorable method by which this purpose can be carried out.

Now, gentlemen, in closing, let me say this. I am for this proposition. I believe it should be sustained. I believe the members of the down State should stand by it. I believe that it is essential. But, gentlemen, if anyone on my left or upon my right can call my attention to a better plan of carrying out the method by which the great State of Illinois and its people scattered everywhere may maintain their legal rights, and there is some better method, sir, not only I, but I know you all would join in it if it is necessary, but let me say this in closing, that nothing better has been offered, and it stands here now as the one proposition presented. It is clean, honorable and fair. It represents the rule of the mass of the people, and it should be voted upon. While the gentlemen to my left, from the great empire county of Cook county, are joining to carry out what they believe to be their duty and their right, these gentlemen to the right and back of me likewise should join in what they believe to be right, and let us go to the people.

One more thing, gentlemen, and that is this, and it seems to me this is essential. This provision provides what? That you may go to the people with this proposition. It takes the burden and responsibility from this body in an appeal to the people, and it gives the people the right to determine as between these two propositions. In other words, it says that while into the Constitution goes this proposition which creates a House such as I have suggested, it gives the right of appeal to the people, and the people shall settle and determine as they wish.

Mr. President, I am satisfied that at this hour, at this moment, we are determining the fate of this Constitution and of this Convention. Whether you and I and every man elected here shall go back to his home having accomplished a mighty duty, a great responsibility, and given the people of the State of Illinois a Constitution which shall preserve the liberties not only of Cook County but of the entire State, that is a matter that is in our hands, gentlemen; and if we are able to do so, let us separate and divorce from our minds the fact that we live here and there, and try to recur to the great principles of human government, and so doing, gentlemen, let us abide by the conviction that shall be in us, and let us cast our vote accordingly, and let the men from down State who come here with constituents that are overwhelmingly for this proposition stand by it and regardless of the consequences that may come hereafter, gentlemen, this Convention, Mr. President and the gentlemen from down State, will have done their duty. (Applause.)

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). Mr. President and members of the Constitutional Convention:

I have listened with great interest and attention to the speeches made by the delegates from Schuyler (Jarman) and from Hancock (Mack), for whom I have only the highest regard.

I regret to differ from them in any particular or on any proposition that may come before this Convention, but as I look upon our work in this Convention, Mr. President, I think that we can thank God that the liberties of our people have never depended upon written documents, but upon that inextinguishable love of freedom and that determination for liberty and for self-government which has characterized the Anglo-Saxon race, and on account of which our stream of civilization has through the centuries borne slowly down. And that stream of liberty, when we examine it, we find depends very largely upon the right of suffrage and the right of representation.

When we examine the history of suffrage and the representation of communities in legislative bodies, we find that a large part of the effort through past centuries to develop self-government has been a struggle on the part of the masses to obtain for themselves adequate representation in government as against the more favored classes who from earliest times

have enjoyed the right of governing their nation. At first it was the autocrat or unlimited monarch who ruled without consultation; then certain of the nobles acquired rights for themselves of representation in the councils of the state, which claim was gradually increased to include not only the great lords and chieftains, but gradually the lesser nobility and finally the commons secured the right of voting for representatives who could appear in legislative halls and take their part in the deliberations of government.

In England, this right of representation so far as the commonalty were concerned was given to various communities as a reward for special services, usually grants of money to the crown; and these old and ancient rights granted when such communities were prosperous and powerful continued long after their population had diminished and gave rise to the rotten borough system, so-called. While this system was in force, in any community only those persons who were members of the guild or commune or whatever the body might be which had the right of suffrage, could vote, and long after this idea had disappeared there still lingered the theory that only those persons who were in some special situation had the right to vote. For long, there was a religious qualification, and in this country these religious tests were the first to disappear, being finally abolished in South Carolina in 1790. The property test lasted longer. At the beginning of the nineteenth century, voters must be freeholders in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Virginia, Maryland and both the Carolinas, but these tests now have all disappeared as a broader basis of government has come into full recognition, to-wit: Universal suffrage.

We are now seeking in this Convention to return by county representation to the old and long discarded theory of community representation, notwithstanding the fact that 56 of our counties decreased in population from 1910 to 1920, and that if this long continues, county representation will give us in Illinois the same sort of intolerable situation that the rotten boroughs caused in England. Furthermore, we are again attempting by this plan to fix upon the people of Illinois in lieu of the old religious and property qualifications for voters, the qualification of residence. If a man lives in Boone county, with 15,322 people, his vote will count for five times as much as if he moves across the line into Lake county, with 74,000 people. It may be that the farmer or the laborer in the country districts, be he farmer or no, has a broader view of the needs, social and political, of his state than has the industrial worker confined as of necessity he is to a special and restricted line of work and of thought. Perhaps we should have great confidence in the altruistic judgment of the man whose work and interests are in the open and whose very business starts at the foundation needs of system and extends into all the markets of the world, and by this proposal we are saying that those counties which have a farming population of a few thousand only will have the same weight in legislation as the counties whose industrial possibilities have given them an enormous population. Pope and Hardin and Putnam, with 24,000 people, will be equal in the legislature to St. Clair with its 140,000; they will outweigh Peoria with its 112,000 or Sangamon or Madison or Kane with 100,000; Calhoun and Henderson with 17,000 population will equal Rock Island with 92,000. In other counties, the voter in the small counties will have as much influence and as much weight as three or four or ten voters in the larger counties. Do you dare to say to the steel workers of Joliet, the furniture makers of Rockford, the implement men of Rock Island, the coal miners of Franklin, Williamson and Vermilion, and the various industrial workers of Peoria, Madison and St. Clair, that they are not fit to stand on an equal footing with the voters of Pope and Union and Wabash? Does our venerable and beloved delegate from McLean want to say to the people of Illinois that as Governor of this State he learned to distrust and despise the industrial workers of Illinois, and to believe that they have shown by their votes and attitude that they are not fit to have an equal voice in the government of this greatest State in the Union?

I believe that this county representation plan is a step backward towards the dark ages; towards the time when the rights of man were held

in contempt. The progress of civilization has been to broaden the foundation on which government rests, and this county plan is an attempt to turn back the clock of history and to plant in our midst the seeds of dissension and of revolt, which surely need no encouragement in times like these.

Furthermore, Mr. President, it must be manifest to all of us that the adoption of this plan will make for sectional differences within our State; that the campaign for adoption of this Constitution will result, if this plan be adopted, in the deepest sectional feeling; it will arouse hatred and distrust between different parts of our State which inevitably will deal to the business of Illinois a severe and staggering blow no matter what the result of that campaign may be. Now, Mr. President, unless business in this State is prosperous, our people cannot be comfortable or happy or contented. The savage provides his own clothes, if he has any, his own food, his own shelter; but civilized man lives by co-operation with his fellow-men, and this co-operation in its broad sense is what we call "business." The rest of this State deals and trades with the city of Chicago. There it borrows its money: there it sells its products, and if you seriously interfere with this you shake the very foundation on which our government and our civilization rests.

The truth is, that this old plan is the result of our American penchant for adopting short-cuts. We see in the great City of Chicago a tremendous aggregation of people. There is spread before us in her newspapers from day to day the acts of crime and vice which there occur. We see and feel the effects of her great and unscrupulous machines, and we are agast and terrified. We overlook her splendid achievements; her tremendous charitable organizations and her enormous gifts thereto; we forget her park system; we forget that she has one of the finest public education systems of any county in the State; we overlook the fact that she is doing more for her children and her poor and her afflicted than any other community in Illinois, and we seek to limit her activities and to remove any possible menace she may be, not in the only right way, by education and development, because that takes time, but by the quick and apparently easy method of denying to her the equal right of suffrage and of representation, which the rest of us demand for ourselves as though it were a right which we should enjoy, but should deny to others solely because of the existence of an imaginary geographical line.

I am opposed to this plan, Mr. President, not only theoretically as my remarks would indicate, but for an intensely practical reason, too. Perhaps I should say for two practical reasons, and the first of these is this: We are here to devise, if possible, a new Constitution for our State. We need it, not only with reference to Chicago's representation, but far more we need it to get rid of our present archaic and unworkable revenue system; and if, Mr. President, we propose a Constitution which rightly or wrongly offends Cook county and enrages a large portion of our State, we shall never be able to get such Constitution adopted. By this county plan, we are deliberately slapping in the face not only Cook county, but every industrial center of the State, and that means all the union labor of the State of Illinois. We are making it impossible to have a new Constitution at all. And the second reason is this: While the form of county representation is a deliberate affront to Cook county and to all the larger counties in the State, its practical work as a limitation of Chicago is, it seems to me, almost nil. We are not drawing a Constitution for the next ten or twenty or thirty years, but we hope for fifty or seventy-five or one hundred years hence.

The delegate from Schuyler (Jarman) spoke of the fact this limited other counties in the State as much as Cook county. It limits them far more, but so far as Cook county is concerned, let us see what will be the result of this plan, and the only way I know of to figure on this is to take the figures and see what would have been the result of the plan had it been in force years ago. Following the census figures from 1890 down, here are the results: The population of Illinois, of Cook county and of the other large counties in the State, is as follows: Illinois, in 1890, 3,826,352; in 1900, 4,821,550; in 1910, 5,638,591; in 1920, 6,485,280; Cook county, from 1,191,922 to 1,838,735; to 2,405,233, and to 3,053,017.

On the other counties I have here the figures, but I will not read them to you, but they show that in 1890 only one of them, LaSalle, under this plan would have had two votes.

If now we analyze these figures, what do they show? If the county plan had been in operation in 1890, the 91 small counties would have had 91 representatives; the 10 big counties, 11; Cook county, 24; a total of 125 in the legislature, with Cook county's percentage 19.

In 1900, the figures would have been as follows: Small counties, 91; 10 large counties, 14; Cook county, 37; a total of 142, with Cook county's percentage raised to 26.

In 1910, the small counties still 91; the 10 large counties, 18; Cook county, 48; a total of 157, with Cook county's percentage 30.

In 1920, the small counties still 91; the 10 large counties, 21; Cook county, 61; a total of 173, with Cook county's percentage grown to 35.

If the same rate of progression is followed in 1930, Cook county will have 41 per cent; in 1940, 47 per cent, and in 1950, less than a generation from now, a clear majority. Are you advocates of the County Representation Plan willing for any such will-o'-the-wisp as this to rouse within your State the fires of discord and sectional feeling which your plan inevitably must evoke?

It seems to me there is a far better and more effective way of limiting Chicago, which at the same time is fair, and I say it is fair because I base it upon the premise that only those persons have any right to be represented under our form of government who actually go to the polls and vote. Our Chicago delegates have said they would agree to a limitation of one-third in the Senate, provided we divided the Lower House into 153 districts, as at present divided, not according to population as at present, but according to voters, and this I submit is what should be done. It is in accord with the best theory of government; it will be an added incentive to citizens to go to the polls on election day, and that means that we will have no such spectacle as was presented in this State by the vote of 1920, when the down State vote decreased by 176,000 as compared with the vote of 1916. I want to give you the result in the Lower House in our Assembly had this plan been in force. The total vote of Illinois was as follows: And it doesn't make much difference on the figures whether you take the vote for Governor or for President. In 1900, for President, 1,101,046 in Illinois; 389,953 in Cook. In 1912, 1,045,119. The State had decreased, and Cook had gone down to 371,614. In 1920, 2,094,714 for the whole State, with Cook county grown to 893,137; because she increased her vote, while the down State voters stayed at home.

On these figures the showing would have been as follows: Out of 153 members in the Lower House, in 1900 Cook county would have had 54; in 1912, 54; in 1920, 65, which would indicate that by 1940 Cook county would have a majority. But the total vote of Illinois in 1916 was 2,192,707; the total vote of Cook county was 815,133. Had the down State cast as many votes in 1920 as it did in 1916, the result would have been 1,377,574 votes down State, and 893,137 votes in Cook county, which would have given Cook county only sixty of the legislative districts. Had the down State increased its vote in proportion to its population and got out that percentage which it ought to have done, Cook county would not have had more than fifty-eight members. If you adopt this plan then, the whole proposition will be up to the voting population of down State Illinois. If they go to the polls and vote, it will be one hundred years before Cook county can have a majority in the lower house. If they do not go to the polls and vote, they do not deserve any consideration, because no matter how good a man may be in his business or his private life or in any other respect, he is a useless citizen if he does not cast his ballot on election day.

Mr. President, I believe the county plan is wrong theoretically, so wrong that it seems to me a reversion to the ideas of three hundred years ago; so wrong that I believe it will do an injury to our State from which we will be scores of years recovering; and practically I think it is wrong because it is a useless restriction which will only infuriate and degrade a

portion of our State, without accomplishing in the long run the results its advocates claim to desire. (Applause.)

Mr. GEE (Lawrence). Mr. President.

THE PRESIDENT. The delegate from Lawrence, Mr. Gee.

Mr. GEE (Lawrence). Mr. President and Fellow Delegates of the Constitutional Convention:

Once in the history of our nation when sectional strife was at its highest peak, there was a man from Illinois that spoke to the nation and spoke to those who differed from him by saying, "We must be friends." Not enemies, but friends. As I gazed at the canvass of that immortal personage, I thought how poignantly that ought to appeal to every member of this Constitutional Convention.

I may never have another opportunity, and so I take it now, to say to the gentlemen from Chicago—for it is useless to talk about Cook county, for the differences that beset this Convention are on a question pure and simple, as I see it, between Chicago and the down State, in short, between the great manhood outside of Cook county and the rest of Illinois.

When I took my seat in this Convention and became acquainted with the gentlemen from Chicago, I formed the very highest degree, so far as I am capable, of belief in them, and if I were certain, gentlemen, that the time would come in the future that the halls of the House of Representatives would be filled with men such as I see before me in this Convention this afternoon, with such a high, patriotic purpose to do good for Illinois I would not have much fear of the future results. With your golden opportunities far outweighing anything any man down State can have an opportunity to achieve, I have been somewhat surprised why we have this strife and contest that has been mentioned in this assembly over this question.

For myself, I want to take things as they are. The past is gone. The present is here, and we can only guess as best we can from our experience as to what the future has for us; and I feel like I did when I went into one of those great department stores in Chicago, and I saw a piece of goods that attracted my attention, and I stepped up to look at the card price, and it said, "As Is," and when I got to understand what "As Is" meant, I saw the defect and the blemish, and I did not want it.

As the present Constitution is, seemingly none of us want it, and the duty of our men is to make some kind of a Constitutional provision that will be better than anything that we have today.

I hear practically all of the opposition to the county representation plan based on one word, population, as if the word "population," past, present and prospective, had any magic of itself that could bring out of the seemingly chaotic condition we have formed something better and brighter for the future.

Our legislature must of necessity be a house of representation, representing the people. Now, the question of the moment is how best can we formulate a plan to represent the people. As it is now, and as the objectors to our plan say to us, so far as I can understand them, in the future it will be, if they have it their way, that it shall be by districts made up of population, using some quotient to divide up the representation and make up the men that fill the House of Representatives.

You have only now to look over your apportionment at the present time to know that district after district is represented by fewer population than other districts. For the nonce, I represent a district that has more counties than any other district in the State of Illinois, eleven; two hundred miles in length, scarce thirty in breadth, an ideal salamander for popular consumption, called a gerrymander. Five counties absolutely not represented at all in the House of Representatives.

We think that the ideal plan of representation is to go back to the unit, the county; for all the ideals of community life exist where people love one another, where the best citizenship can come in contact one with the other, and then select a man to represent that community in the House of Representatives. I haven't any fear of rotten boroughs in the great State of Illinois. Our forefathers fought and settled that question, and when you talk about progress, gentlemen, all the progress on this line throughout the

breadth of the United States has been toward county representation. The first State in the Union, the Empire, the Keystone, the Buck-eye, have all taken up county units as a representative method, and they are not retrograding, they are not going back, they are not having any strifes or internal troubles, and they are doing no harm to the great United States by being a part of it, either.

You can waft your way across to the Pacific and you find Wyoming, you find the newer states taking counsel from the old, taking their lights from the lamp of experience, and they are writing into their Constitutions and have for years, county representation. They have an idea. They know when a man has been selected in a county the county voters know him, and they send him up there to represent them.

I have heard it said that our theory is wrong because we are giving too much potency and power to little counties. I heard some honorable gentleman say, "Why, here is little Putnam, with about 7,000 people. Shall she rank up with Peoria, or some other large county?" A man by the name of Putnam in historic days left his plow and fired a gun in the revolution that made possible this United States of ours, and it is not too much to claim that if little Putnam county was given a chance out of her borders, however narrow and limited they may be, there may come a man that will represent not only Putnam county, but Illinois. The Great Emancipator came out from the prairies of Illinois. The great Logan came out from the southern part of Illinois. The great silent commander came out from the northwestern district of Illinois, when they were small counties indeed, but they had an opportunity, and I am pleading here, along with all the down State men who represent small counties, that we have a right to a place in the sun. We think you have no right to deny us the opportunity, either. We have never tread on the toes of aspiring men from any large county. With all your Croesus of wealth, with all the great institutions that you have, with all the good that you have done, and you have done much, do not forget that the train loads that carry the products there outside of the borders of Cook county made possible your great and astonishing growth; and I think I have a right to say to you, as you would have a right to say to me under the same circumstances, Why the selfishness on your part, when we have been so unselfish during all the years on our part?

This fetish about population is more imaginary, gentlemen, than real. What we want in the legislative halls of this great State is representation, not of any one community, but representation from all communities, so that the men that are brought in this chamber to consider and counsel and make the laws to guard us in the future may come together to know and learn from each other what the immediate needs of a great State are. How are you going to get that? Why, I have been amused since I have been in this Convention hall. Men don't know where my county is, and they come sometimes from the great big counties of Illinois. I don't blame them. They have no interest in my interests. I don't think they would do anything to do any damage to the interests of my district, but how can they know what we need in the Forty-eighth District, as it is now, unless they have somebody there to tell them our needs and our wants.

This question, gentlemen, in the last analysis, in my opinion, is based on two things—I mean the opposition to the county plan—fear and selfishness. What have you got to fear, men that do not like the county representation plan, from any man that may come out from the border lines of any county of your State? Has the past ever presented a case, and I would be glad for some gentleman to tell me, because I have been trying to learn it—has any citizen of down State ever undertaken to throttle the progress of the great County of Cook or the City of Chicago? So I think it is groundless to fear revolutions and great sectional strifes coming out of the county plan.

I don't know much about figures. You can prove almost anything sometimes by figures. Most of the times it is the way they are manipulated. But taking the past as an index to the future, no man in Southern Illinois that I know of has any grievance or wants to destroy any progress or success of Chicago.

So far as the newspapers are concerned, of Chicago, in my opinion they are hardly worthy of passing attention, because you gentlemen in Chicago don't follow them yourselves. Why should we? You know them better than we do.

Now, we do have some fears, and we think we have a right to have some fears, because I am going to offer another suggestion, and I am open to conviction from the mind of any man that can furnish the information. When did Cook county's delegate or representative ever offer a suggestion for the benefit of any county, small or large, in the down State? Our communities best know the character of the people among whom they live. One of the judges of Chicago, if he has been quoted rightly, has said that Chicago has the most lawless community in the world. Do you have any reason to criticize me if I am afraid if that fact is true to allow that kind of a population to furnish the men to make the law to govern my beloved State of Illinois? Your congested condition is such, as you know, that many times you have had to come to the House of Representatives here and say, "Save us from ourselves."

We are trying to get out of that slough of despond. We are trying in this Convention now to make a plan by which no man, wherever he lives in this great State, the third State in the Union, can be afraid of what the law-makers of the land may deem right to be a law to guide and direct him.

We want to keep adding our strength and our toil to manufacture and produce and ship away up into the great marts on the lake the things that our brawn and sinew make it possible for you to make your golden opportunity out of. We are willing to keep that up, but when it comes to humanity itself, when it comes to the hour that we have now, as to who shall represent us in the councils of our legislature, then we say, like all men who have ever stood up in any hall and banded together and battled for what is called freedom and right, that we believe that we can be trusted to take care of ourselves.

The county, the unit of political sub-division, the county, that is in close contact, each neighbor with the other; the county, that can only know through its citizenship what that county can achieve and what kind of legislation is best for it! The representative of that county is the only one that can speak in the halls of legislation and speak to listening ears what is best for the community in which he lives.

I want to throw away, gentlemen, the selfishness of the hour. I want us to turn back and think of one grand State. I want us to forget the county I came from, and I want you to forget the county you came from, and I want us to say we link our fortunes together for the welfare of the common good, and no selected part of it.

I haven't any fear of the character of men that will be brought from every county out of the 101 for which I try to speak. I know that in small county limits and large those men will be the cynosure of the eye of the intelligent voter, and if I was to make a reply or it needed it, I would say that in my opinion no better way will ever be conceived to get out the vote that some think is so necessary to have at the polls than when the man has shown himself to the populace and the voters and asked for their suffrage and they want him in the halls of the legislature. They will come out to see that the best man wins.

Now, what is our plan, stripped bare? We are denying nothing to Cook county in the way of representation. We are saying, so far as the county is concerned, she is the equal of every other county, as a starter, and then we say that on account of her great population, on account of her great industrial affairs, on account of her great commercial pursuits, on account of the great diversity of interests in her county, we want them to have an additional representative for every 50,000 more, because we cannot expect nor you could not expect one man in that great, congested, dense population of people of all tongues and races to be competent to carry on for all the different needs of the great people of different kinds and characteristics and pursuits; and I venture the assertion that if you adopt this county representation plan, as we present it, you will do what we will do, you will select the best men and you will do like we do, you will know your men.

Some of you have told me you never can become acquainted with the men that run for your offices. A man, as I see it, who can't bear acquaintance-ship, who can't bear the scrutiny of the voters, has no business in these halls.

If it is a question, gentlemen, of safety first, we are offering to you gentlemen the safest plan, because the main thing is that the man in his county can't come here term after term if he can't deliver the goods, if he can't be true to the conditions which surround him.

For myself, I speak truly when I say I have no selfish interest at stake. I have no knowledge worthy to give to this body of delegates as to what the great master minds, theoretical and otherwise, have said about these questions, but observation only teaches me that nobody is satisfied with present conditions. Nobody is satisfied with the hybrid misrepresentation that we have in the Lower House now. Every one cries out and winds himself up in the banner, "We Want To Be Represented." Then let us take to ourselves the plan we offer you and be truly represented, so that whoever may in the future stand in this chamber and proclaim what the emergency of the time may demand may be a man that his people at large had confidence in and supported because he was a man.

My friend whose guidance I take delight in following on the question of taxation, but not on the question of representation, I feel with a great deal of certainty that there is a Senegambian somewhere in the wood pile. I think that the position which New York took on this matter is correct, and nobody has heard a word from the Empire State that she is dissatisfied with conditions. Pennsylvania went forth and said, Let each county speak. Other states, Ohio and Iowa and Kansas, bleeding Kansas, are satisfied with conditions, and so far as I know, no state in the union which has adopted county unit representation in the lower house has ever sought to repeal the act.

So, so far as I can dip into the future, gentlemen, don't take anything as a portent of disaster by reason of giving little Hardin or little Edwards or little Putnam representation, because the nearer the representative comes to the home affairs of the people that he represents, the more likely he will be, in my opinion, to rise up and measure true to the people that sent him.

No man can claim, no men can claim that out of the galaxy of stars of men who have made themselves patent and effective in this great State of ours, many of them did not come from the broad prairies of Illinois, out of the hills of Southern Illinois, and out of the mining lands of Illinois; they have given men of true worth and tried by experience. With that experience of the past, how can any man attempt to turn the clock of time and say that if you adopt the county representation plan you invite disaster to this beloved State of ours.

Oh, I would rather take my place as a citizen of Illinois following in the foot steps of the Empire, the Keystone, and the mother, almost, of Presidents, and the Sunflower state, the great corn producing state of Iowa, and the states wafting away out on the borders of the Pacific, even among the high rocks where men are worthy and have to fight for existence. They have taken to this county representation, and they have not fallen down.

I want to leave a last thought with this Convention. Somebody told me and I believe it is a fact, that in no state in the broad union of ours where county representation is in force has that state retrograded, and you can commence to call the roll with Alabama, if you please. You can go down to the Everglades of Florida, if you please, and you can go down in the Carolinas, and I will venture the assertion that wherever the county unit has been adopted and wherever the county man has been heard, he stood for progress and he has been animated by the desire to push and carry on, not go back.

Men of Illinois, we are proud of Illinois. Oh, I have hope that she will be proud of us. The lines are strictly drawn. Of course there are counties that have lost population, but is that a reason to say that they have lost men, real, live, able men? What do you want in these halls? Don't you

want real men? Don't you want men that have only one high single aim, to do the things that will benefit all of Illinois?

Once in a great while some of us forget, and we follow the will-o'-the-wisp of the promised land. Sometimes we get selfish, and we only think of our own selves, but, gentlemen, not a man, in my opinion, was selected to be a delegate in this Convention to think of himself. The duty of the hour should be burned into the hearts of every one of us, and never forgotten. We are here standing, like fifty years ago men stood, to make a Constitution, to reach out forward to the generations to come. I don't want to see myself, and I don't want to see you step a step backwards.

For fifty years you have had your population idea. For fifty years you have districted and redistricted, and you have absolutely ignored population. Let me show you a concrete example of this, and if you will look at this little book, furnished me here, like most of the things I get given to me, take my district, and I have a right to speak for it; it asked me to—118,599 people, population in 1910, I think it is. They stand in this hall now with the same representation that 95,714 do in the Thirty-fifth District; that 84,211 do where little Putnam is sandwiched in. You talk about population, and under the present Constitution you deny it every time.

I want, gentlemen, to strike off the misrepresentation of the past. I want to have an ideal representation in the halls of my General Assembly. I don't want any longer to have two men juggle and get the nomination and crowd out the weakest. If there is one lesson that has caused every man's heart strings to burn recently, that is the lesson that has come out of the war that the crowding out of the small nation is a thing of the past; that might with a steel saber no longer can throttle the power of the weak nation. Can't we learn anything? In the greatest liberty-loving and freedom-loving people in the world—none better than Illinois, that gave the greatest names of history; Illinois, that always stood in the front ranks of progress—can't we learn anything but that where the power of strength is it will be utilized to wipe out the weak?

In this matter of government, getting down to the first analysis, it starts from the one man idea, and somebody must represent him, and we boast that we let the weak man have his say. Why can't the weak county have its say?

So, gentlemen, I want to conclude by saying, you say to us, "Well, we will be limited in the Senate, but we want full sway in the House." One gentleman told me that he would rather change it to electors. It is a distinction, in my opinion, without a difference. No harm can be done; no rotten borough will ever be made; no voice of freedom will ever be stifled; no liberty-loving, aspiring man will have his hopes of the future blasted by county representation.

Doubtless thousands of young, aspiring men are now doing manly work of the day on the prairies of Illinois. Fortune has fixed their places in small counties. Like the Rail Splitter of old, they only want the door of opportunity to be opened. The time is at hand when you gentlemen can say, "We take up the side of humanity, and selfishness and greed shall be retrograded to the rear." So I invite every man to seriously consider this question, because the county representation is the ideal plan, in my opinion, to have a truly representative government in the General Assembly of Illinois. (Applause.)

Mr. CARLSTROM (Mercer). Mr. President.

THE PRESIDENT. The delegate from Mercer, Mr. Carlstrom.

Mr. CARLSTROM (Mercer). Mr. President and Gentlemen of the Convention:

The historic and histrionic virtues and demerits of the proposal have been presented to you at such length that I shall not make a speech. Regardless of what we might say in the most beautiful terms of the course of history and the experiences of the human race, and in commendation of its great character, the thing that we are deciding today is a question which presents itself in the concrete to us.

I join most heartily with my friend, Judge Gee (Lawrence) when he says that we ought not to give to any section or part of the State or to any

element of the State control, but that we should sit down together and seek to have a common purpose, a common endeavor and a common effort in shaping the legislative program of the State of Illinois.

I say that for this reason, that this county representation plan which you are proposing here, gentlemen, accomplishes the very thing that he says he does not want to do. In nine counties in the State of Illinois, with a population of less than 10,000 of people, as against nine of the biggest counties in Illinois, entitled under this plan to but one representative each here, there is a disproportion between those two groups of counties of as seven is to one.

In twenty-three counties in Illinois with a population of 15,000 and less, as against the twenty-three largest counties entitled to but one representative, you have a disproportion of population of as five is to one.

As between the County of Cook and the balance of the State, your disproportion of representation is as three is to one.

What we are doing by adopting this proposition is disfranchising 50 per cent of the people of the down State, without accomplishing disproportionate representation to the County of Cook, that which you profess to be seeking to accomplish.

Gentlemen, if we adopt this proposition, we are placing in the hands of an extreme minority of the people of this State, not only in Cook county but in the State at large, the power to shape the legislative course of Illinois during the life of this Constitution. I believe, my friends, that it is the most fatal error that this Constitutional Convention could possibly permit itself to commit.

I stand here, my shoulders burdened with criticism from every hand, even maligned and misrepresented, but I stand here in the presence of you men and six million people in Illinois, honest in my conviction, sincere in my judgment, and that leads me to a conclusion under which I say now, as I have said heretofore, I shall not and can never vote for this county representation, which I esteem to be a monstrosity in the distribution of the representation of the people of my State. It endangers the future progress of Illinois.

It has been said here a moment ago by my friend that there never was an effort to hamper or hinder the City of Chicago. I talked to a senator from Illinois down State within the last month, who said to me, "I have been in the legislature of Illinois for twenty years, and," he said, and he has been one of the leading and guiding spirits in the legislature of Illinois and has had the chairmanship of committees, the most important committees, and has done much to shape the legislative course of this body during twenty years, and he said to me and Mr. Dietz (Rock Island), my colleague, "In all the twenty years I have been in the House, I have never except on one occasion seen the members of the delegation from the City of Chicago absolutely a unit, and that was on the Lantz bill in the last session of the legislature."

I am not discussing, my friends, the merits or demerits of the Lantz bill, only to say this, that it is only a short while ago that we heard that some institution which it was sought to abolish was severely criticized because it had raised the price of grain, which soon made the price of flour expensive to the laboring man. When the world's economic conditions shaped themselves in such a manner as to bring down the price of the agricultural commodities of this country, because the European countries had not the power to purchase, we immediately sought to lay the blame somewhere. If that bill had passed, we might have lost the avenue through which the products of the Mississippi Valley are sent out to the markets of the world. There might have been something accomplished there that would have been very inimical to Illinois. If this legislature had been represented under the county representation plan, in this spring of 1921, that bill would have passed, without any question. There isn't any question about it. I said to my farmer friends down home, the executive meeting of the farm bureau of my county, I said, "Gentlemen, the great City of Chicago is the avenue

through which the products of this great region find their way to the markets of the world. We cannot afford to hamper or destroy its usefulness."

That is only one angle of the question, my friends, but it is a thing that shows that, I think, we ought to pause to consider whether we should destroy this great institution, which has made the Mississippi Valley as great as it is. And the thing beyond all others that strikes me is this: In my honest judgment, and I may be criticised, but I will stand or fall on the proposition—oh, Judge Gee, my friend, I want to say to you that I think a man ought to be too big to be selfish to fear the consequences of expressing his own judgment. As God is my judge, as the years roll by, ten years from now, twenty years from now, the State of Illinois will thank the men who had the courage to jeopardize their own future to take this broader ground and this broader position," and I fully believe that, so help me God.

The things that seem to me in this same honest conviction of my own to be guiding the pressure that is brought to bear on me from every part of the State, not alone from my own district, emanate from two sources. One is the purpose of an organization which is all-powerful in this State, in a measure to put itself in a position where it can pass all the legislation which it wants, regardless of what the consequences may be to the economic, industrial and social welfare of the State, aside from that program.

As illustration of that, I want to call your attention to this mass of mail which I received today, a great deal of it from people who came from the country my father and mother came from to this land of promise and hope. This card I received, without return address, which is illustrative of the thing that I have in my mind:

"Evanston, Illinois, January, 1922.

"I am an anti-saloon prohibition man, in spite of all crooked politicians in Chicago and elsewhere. Rev. C. A. Andreen told me to state to you, so go on.

"REV. N. M. LITZIGREN."

Gentlemen, I don't think a man should be a coward in a place like this, even after threats of that character, and fail to do the thing which he believes he ought to do.

Let me say on that point, my friends, the Constitution is too vital a document to be based upon the purposes of any single group seeking a particular line or course of legislation. It ought to be big enough to be the groundwork for every bit of legislation that not only protects the morals of the people, but protects their economic, industrial and agricultural growth and their future and their prosperity and their happiness.

I want to say to you, my friends, that if we adopt this thing, with all due regard to the gentlemen who have spoken, with such feeling upon this subject, with all due regard for them, I believe that when we see it put in operation and the result is the restriction of the progress of the State of Illinois, which will follow if the kind of pressure sought to be exercised upon me is exerted successfully upon the legislature of the people, we will be men who condemn ourselves as long as we live, and appreciate the force and effect of our acts.

The other theory I think that this thing is backed by is that spirit of selfishness, which to my utter astonishment has been used as an argument against those of us who stand out against this proposition. They say we ought not to be selfish about it. I believe that 50 per cent of effort to put this thing over is the result of the selfish purpose to forever fix representation in this House to every county, regardless of its population, and I believe back of that is the thought of cupidity, that the State of Illinois shall increase its legislative lower house to 172 men, and shall take out, shall draw from the treasury, which is drawn from the taxes of the people, an amount sufficient to pay for every little geographical sub-division of the State known as a county, regardless of its size, a sum sufficient to pay a man \$3,500.00 to sit here and represent that county.

I have a telegram from Mr. Dietz (Rock Island) which I should have read this morning to explain his absence, but it also includes an admirable suggestion, it seems to me.

HON. OSCAR E. CARLSTROM,

"State House,

"Springfield, Illinois.

"Had meeting yesterday with large number of very prominent citizens, such as Peek, Blanding, Jansen, Evans, MacDonald, Abraham and others."

By the way, let me say, gentlemen, that these men represent industries of Rock Island county that give employment to thousands of men. We have no better citizens than these men. We have no men of broader vision nor a better concept of the principles of government and the prospects of the future of Illinois than these men, whose opinion on the question of the method of limitation of Cook county should be regarded most highly.

"They do not favor the county plan, nor any plan which would give either down State or Cook county control of both houses." And this is the explanation of his absence: "Murder trial still on. Cannot get away. Best regards." My colleague is engaged in the defense of a man charged with murder, and the trial unexpectedly continued over this meeting here, and I want the record to show the reason for his absence, which I think is justifiable.

The thing that these men have in mind is this fact. Someone speaking for the county representation plan came to Mr. Dietz (Rock Island), about a month ago,—and he and I have talked this matter over a great many times together earnestly and honestly—and they said to him, "You would not want Cook county to lay down the methods and rules under which the rest of the State would be taxed and controlled?" Cy said "No, but say, Oscar, that suggested something to me. Is it right that the rest of the State should lay down a harsh, unfair or rigid rule of taxation on the vast property interests centered on Lake Michigan in Cook county?"

Gentlemen, the interests there touch the welfare of Illinois. I believe that there should be such a compromise adopted in this Constitutional Convention as would result in a check and balance, if there is to be this continued wall of China between Cook county and the rest of the State, whereby the State itself, outside of Cook county, could protect itself by means of these checks and balances, and Cook county and the City of Chicago could protect themselves by a similar power of check and balance, and we could accomplish that, my friends, if we could take up the proposition that was proposed in June of 1920 here of limitation of Cook county in the Senate to one-third. What man is there that would ask a greater control of any representative group of men than to forever have a two-thirds power in the Senate? If we take that proposition and then step down and distribute the representation in the lower house on the basis of electors—they tell me to use the term "voters," because lots of times folks don't know what you mean when you say electors, in the vote of 1918 and 1920 with the House remaining at 153, Cook county would have had 63 out of those 153.

Now, gentlemen, that may seem like a limitation, but it is a limitation that none of us can question. It can't be the groundwork or the basis for dissention, because we are giving representation, as my friend from Knox (Gale) so splendidly said, to those men and women who are of sufficient value to the State; it gives to them who have preeminent concern for the State to the extent that they have exercised their right of suffrage, the representation to which they are entitled. It eliminates aliens and those who do not participate in government and who are not entitled to representation.

That would be a proposition we could go to the people of Cook county with and to the rest of the State, honestly and feeling that we had violated no principle of government; feeling that we had not surrendered into the hands of any minority in Illinois the power to control the destiny of Illinois. May God grant that he who put his name upon the escutcheon of this great State and made us sing with gusto that wonderful song of "Illinois, Illinois," may never, as he looks down from the stars above upon those below see the great State of Illinois retrograde to a position where a minority group may

control and prescribe the mode of living of the majority of the people of this State. I believe in the rule of the majority.

As a citizen, believing in the enforcement of the law and respect for the law, I would say abide by it, but whenever we so manipulate the machinery of the government that the minority can prescribe for a majority, we have robbed the men in the majority of the respect that they ought to have for the decrees of the law, because they feel that they have not participated in nor been permitted to have a say in the adoption of those regulations.

Gentlemen, may I ask you in all honesty and candor to lay aside prejudice and passion in this thing? Let us reach a common base where we can go to the people without sectional feeling and tender them a Constitution that will serve them reasonably well and protect the future of Illinois, without this passionate feeling that seems to prevail now between the two groups of the greatest State in the Union. I thank you most sincerely. (Applause.)

Mr. RINAKER (Macoupin). Mr. President.

THE PRESIDENT. The delegate from Macoupin, Mr. Rinaker.

Mr. RINAKER (Macoupin). Mr. President and Gentlemen of the Constitutional Convention:

I do not speak this afternoon of my own wish or motion. I have said heretofore all I feel there is any occasion for me to say on this subject, and I do not flatter myself or any other member of this Convention that any oratory at this stage will affect votes, after the argument of the gentleman from Schuyler (Jarman) this morning. We have reached the point now where it is votes that are wanted, and it is to be assumed that a Convention composed of gentlemen who are by the consensus of opinion of all of the speakers up to date statesmen, already have their minds made up, but there are some things that I think might well be said at this time.

It is not alone in the newspapers of Chicago or among the delegates from Cook county that there is an interest and a feeling upon this subject. There is the deepest and the most widespread feeling, if I am any judge, in my own community of what the sentiment is in the State, that this is the vital and most important question to be determined by this Convention.

There are two members of this Convention to whom I want to refer on this subject as an evidence of the intense feeling in their communities and which they have themselves on this subject, that has led them to come to this meeting at the risk of their health, if not their lives, in order that they might register their votes upon this subject. Two others are absent because of infirmity that may take them away. They regret their absence. It is not a political or a conventional illness that affects them, but if it were possible for them to be here without risk to their lives they would be here to register the sentiment of the communities in which they live.

This Convention never would have been called, there could never have been a vote for it cast at the election except for the sentiment—I don't know by what authority it originated; that has nothing to do with it—but for the sentiment throughout this State, and within Chicago as well as out of it, that the matter of representation should finally be settled in such a way that the great State of Illinois, as contained in the 101 counties of that State, should never become a mere city ward in the City of Chicago, and that is the position—that is the condition into which we drift in the event that the gentlemen from Chicago and the gentlemen of "peculiar alliances" down State—I couldn't quite catch the words the gentleman from Schuyler (Jarman) used—of "easy alliances" perhaps—will put this State into if they are mistaken as to the effect of a limitation in one house.

The gentleman from Schuyler (Jarman) may be in error in his opinion and it may be that a limitation in one house, the Senate, will be an effective prevention of the domination of the State by Chicago, but suppose he is right about it? What about you gentlemen from Cook county and you gentlemen from down State who are the first gentlemen to appeal on this floor to either prejudice or passion, so far as I have heard it, introducing the labor question and introducing the activities of the institution that the gentleman from Mercer refers to, (Carlstrom) the temperance gentlemen.

Suppose that you are wrong in your opinion and enough wavering votes should be cast on your side of the proposition that this provision should fail and the other provisions be adopted, where will we be as the result? Not we down State, but where will we as citizens of Illinois be, you people of Cook county, you people of Chicago? The responsibility is upon us to decide this question, this afternoon. It is not a time now to talk about what compromises other than that might be made. We may all have our individual theories as to what would be the best means of preventing the possible domination of 101 counties by a single county, and I do not believe any gentleman on this floor will say that he desires to see the time come when a single county of Illinois shall dominate the other 101. Talking about compromises, we have been two years in discussing this matter, and I heard on the floor of this House today one of the distinguished delegates from Cook county say, "Who is it that authorizes any compromise; who is it that proposes to limit the representation of Cook county in a single House?" That is the substance of his remarks. There have been propositions by way of compromise, and the people down State have made those propositions and made them fairly. This county representation, which was the first proposition presented, as has been stated in the history of the matter here today, was made in a proposal of the gentleman, Mr. Garrett, I have forgotten the county——

Mr. GARRETT (Winnebago). Winnebago.

Mr. RINAKER (Macoupin). Winnebago—a proposition that was promptly accepted by I think two of the delegates from Cook county conditionally, and yet they were unable to put that across. I am not going into the details of it, but it did not come back in a condition in which it could be accepted, and it was not the fault of down State that that happened.

We had conference after conference, discussion after discussion. There was opposition of the committee to the county representation feature. I remember when the present proposition was made, and it was made by the associate of the gentleman from Mercer, Mr. Dietz, and I thought it was an admirable solution of it, and I have heard some of the distinguished delegates who do not seem now to favor the present proposition say at the time that it was a fair and reasonable compromise of the entire subject, and that was that we take the position we are in today, the senatorial provision as reported back, the county representation feature as it is, and submit as a separate provision the opportunity to Chicago and to these representatives of the other great counties of the State to obtain, if the sentiment of the voters is with them on that basis—to obtain the adoption of an absolutely unrestricted representation in the lower house. That is the proposal that is really before us, today, because the latter clause is a part of it.

Now, at this time, why not, since there is, I think without question clear majority of the members of this Convention who believe in restricting Chicago in both houses—I may be mistaken, but I believe that to be the case—why shall we quibble over methods; why shall we talk about possibilities; why shall we now, after two years of discussion, again talk about some compromise on some new plan? It does not appeal to me that suggestions of that kind are in good faith. I say that without a desire to reflect upon any of the gentlemen who may make such suggestions.

I do not entirely like these provisions as they are. I recognize the soundness of the criticism of the gentleman from St. Clair (Trautmann) in the question that was put by him this morning, and if I had my way about it I would add to this proposal as it is a proviso to the effect that no county should ever be entitled to a majority of the representatives. I think that is a proper addition and should be added to this provision, for the reason that that would prevent a legal and I believe an actual power and possibility on the part of one county to control the other counties of the State.

I think the argument of the gentleman from Schuyler (Jarman), is a sufficient demonstration to any disinterested person, not wrought up as we are by long discussion and controversy, of the fact that the Governor, with his power, the Lieutenant-Governor, with his power, and the Speaker, with his power, can at any time, under the provision to which this is a substi-

tute, under the provisions of the present Constitution in substance, practically make the 101 counties of this State outside of Cook a ward of the City of Chicago; and before we shall be further denounced as desiring to control Cook county for some ulterior purpose, will any opponent of this proposition stand upon this floor and say that he believes it is for the best interests of the State of Illinois and of Cook county that there be unrestricted representation in both houses, with the absolute power by vote upon the basis of population alone to dominate in every particular the legislation of this State? I have not yet heard such an assertion in this Convention, and I cannot believe that that position can be honestly and sincerely taken by any delegate or any citizen.

It is said that this is a turning back to the Dark Ages. Well, that sounds well. That sounds well. I would like to inquire of those gentlemen who are opposed to county representation if they can name one single state in this Union that, having tried county representation, has gone back to the basis of population alone. I pause for an instant. I hear none. On the contrary, I heard it stated by a delegate in this Convention today in private conversation—I do not vouch for his information—that one state, Mississippi, I think it was, is now submitting a separate provision whereby there shall be county representation in the state of Mississippi. Now, I don't know what they have, I don't know whether that is accurate or not, and I don't think very much of the state of Mississippi as a guiding star for the great State of Illinois. I will say that before any of our friends from Chicago can say it; my friend, the Senator across the aisle (Hull), here would be quick at throwing that in; but I also heard the delegate from Schuyler (Jarman), this morning instance state after state where in recent years—Ohio, I believe, was the last—the idea of county representation had been adopted, and Ohio, which is now the only state that anybody can be elected President from, it seems—and nominated—Ohio is certainly a pretty good star to hitch our team to. It is not necessary or proper for me to attempt to recite the other instances, but the idea is this, that if it is turning back to the Dark Ages, there is company on the way. If it is a ridiculous proposition, contrary to the spirit of our American institutions, why is it that, as uncontradictedly stated, twenty-four of the states of the Union now have that accursed system? No, gentlemen, I don't think there is anything in that.

Now, as to the matter of the discrimination against the industrial counties of the State. That, it seems to me, is the cheapest possible appeal. That is less commendable than the suggestion of one of the down State converts that this proposition is merely a slap in the face to the great City of Chicago. Why, the industrial counties of this State, assuming that Cook county is the greatest, as it is, and that they shall be consolidated—the industrial counties of this State always will have under this representation, always must have control on any topic, on any subject that affects labor. Labor is not a county institution. It is not restricted to county lines. The industrial counties of the State are the ones that get the additional representation based upon their population. They can be added together upon any such proposal.

To the gentlemen who are talking about their personal liberty and about the Anti-Saloon League, if there is a division upon that line as between the industrial counties and the others, you have the same majority there by simply combining; and if I understand the situation, the prosecutions on the subject of "white mule" and kindred subjects are just as numerous proportionately and find just as many subjects for their application in the great moral counties down State as they do in the larger cities. I have no brief to hold for the Anti-Saloon League. I have never been in any particular or in any degree interested in or concerned in them, as a contributor or in any other way. I don't like them, and never have, as my friend Trautmann (St. Clair), well remembers. So that in what I am saying and in the reasons that appeal to me, I am not arguing for the purpose of any drastic legislation of any kind; but if these representatives from the great industrial districts, down State and in Chicago, are concentrating

their opposition to this proposition by reason of some affiliations on that subject, come right out and say so.

Now, I want to say this: We people down State in my opinion can get along very well under this Constitution, and the defeat of this Constitution has never had any terrors for me. Some of you have heard me say in the first conference that was held, the same thing. This Constitution was good for fifty years, and is good enough to continue. The people who want this Constitution amended are primarily the people of Cook County, and instead of being domineering and arbitrary and controlling and threatening, as the disposition of some of them has been, it seems to me the other attitude would get more votes.

Now, gentlemen, the general subject, "What is a Constitution. There is too much talk in the newspapers and by flamboyant orators upon the stump,—not in this hall—about the government, about the rule of the majority. There is an effort made to educate the people of this country into the opinion that this country is a pure democracy; that as the mob goes, so goes the government. It is not necessary for me to say, in an assemblage of statesmen such as I am addressing, that that is not the case. It is a question of restriction of the majority. The Constitution is nothing except a restriction and limitation upon the power of the majority; an institution, an article, a thing that prescribes the rights of the minority and prohibits and prevents the majority from infringing upon them. It is not an arbitrary government of the majority.

So if, under this provision, you do not accept the proposition that the down State brings to you as the last and the final proposal, after compromises have been discussed for two years; if you are unwilling to take your chances of writing into this Constitution by the vote of the people the unrestricted representation which some of you have consistently insisted upon, then what more can you ask? The majority, I say, of this Convention having shown itself by repeated vote to be in favor of a similar restriction to this in both houses, we are entitled to have that written into the Constitution, and it is absolute fairness to you and all, in my opinion, that the citizens of Chicago and of the big counties should ask that they have the opportunity to prove that we down State members misrepresent the sentiment of the State and that you should have an unrestricted representation. The carrying of this proposition carries with it, under the pledge of the leader of the down State, the submission of the other proposition. I have not read in any article contributed or editorial published in the Chicago papers any comment upon that suggestion. I may not have seen all the issues.

Now, gentlemen, I thank you for your attention to this matter. I appeal to the down State people who believe that their constituents want a restriction in both houses not to quibble over the method; not to defeat the principle by disagreement as to the particular plan adopted. As I said a while ago, the particular plan as it stands, while I am in favor of the county representation, has omitted from it things that I think should be in it. It is to some extent a compromise. Now, we have individual preferences and wishes, but this plan apparently is the last stand that can be hoped to be successfully made in favor of falling in line with the prevailing sentiment of the country that there is such a thing in our modern civilization in the development of these enormous cities that makes it dangerous, not alone to those outside of the cities, but to the cities themselves, that there should be absolute and complete control by that city even of its own business.

Our provision is not selfish. It is not designed to get a few offices. I would be perfectly willing to put into this provision, if any gentlemen seriously controverts that proposition, a provision that the salaries of the gentlemen from Cook county should be increased enough to even up with anything that the down State gets. Nothing of that kind. It is not selfish. We started in down State, as has already been said, saying to you, "Write your own provisions as to your own home rule, as to your own courts, as to your own form of government, as to your own taxation, in all parts except as they are applied to the rest of the State, and we are for your provisions,"

and I don't know of any instance in which the down State has violated the implied understanding with which we came here that Chicago have its own system of home rule, its own right to raise its own taxes for its own local purposes as it sees fit. I don't know of any instance where that plan has been violated by us. Gentlemen, I thank you. (Applause).

Mr. HAMILL (Cook). Will the gentleman from Macoupin (Rinaker), answer a few questions?

Mr. RINAKER (Macoupin). Yes, certainly.

Mr. HAMILL (Cook). I understood the gentleman from Macoupin (Rinaker), to say he would be quite content to go on under the present Constitution. Does the gentleman mean he would be willing to go on under the present Constitution if it were enforced, or if it were avoided as it has been for the past twenty years?

Mr. RINAKER (Macoupin). Well, sir, I have never defended the action of the legislature in refusing to reapportion, and yet in the light of the decision as read this morning by the gentleman from Schuyler (Jarman), I see no especial evil that has been done.

Mr. HAMILL (Cook). Have you read that opinion yourself?

Mr. RINAKER (Macoupin). No, sir.

Mr. HAMILL (Cook). Well, it doesn't hold in my opinion what the gentleman from Schuyler (Jarman), said it did.

Mr. RINAKER (Macoupin). Well, you will have to ask him about that.

Mr. HAMILL (Cook). Well, but you haven't answered my question. My question is, when you said you would be content to go on under the present Constitution, did you mean you would be content to go on under the present Constitution if it were enforced and the State was redistricted every ten years, or did you mean you would be content to go on under the present Constitution if the application to redistrict was avoided continuously?

Mr. RINAKER (Macoupin). In answer to that I would say that there is an ancient doctrine, criticised by some and yet of great prevalence, that the end justifies the means, and I don't know of any better instance to which it could be applied than the one the gentleman refers to.

Mr. HAMILL (Cook). Mr. President, I still submit the gentleman has not answered my question. Which of the two do you mean when you say you would be content to go on under it?

Mr. RINAKER (Macoupin). I would say distinctly that under those circumstances I would apply that doctrine to the case of going on, exercising the option of the legislature to redistrict when it sees fit.

Mr. HAMILL (Cook). One more question. I understand that the argument—

Mr. RINAKER (Macoupin). Just a moment. That is, assuming that the authority is as has been read by the gentleman from Schuyler (Jarman.)

Mr. HAMILL (Cook). But if the case does not so hold, then you would change your answer?

Mr. RINAKER (Macoupin). Well, I would like to restrict you, anyhow, but not for any personal reason, not for any ill will towards Chicago. The City of Chicago has treated a brother of mine more kindly than any other young man was ever treated in Chicago, and I have nothing but the kindest feelings for Chicago, and no desire to injure it or hurt it, but I have a firm and a confident belief that this legislation will do more good for Cook county even than it will do for the rest of the State.

Mr. HAMILL (Cook). Your further remarks brought another question to my mind.

Mr. RINAKER (Macoupin). All right.

Mr. HAMILL (Cook). I understood you to say just now you believed the limitation put upon Cook county is more important for Cook county than for the rest of the State?

Mr. RINAKER (Macoupin). I believe it will be; I think it will do you more good, yes.

Mr. HAMILL (Cook). Then how do you reconcile that with the willingness you have just expressed to leave Cook county its self-government?

Mr. RINAKER (Macoupin).) Because if you have your local self-government, that is something you can change back and forth every time you have an election. If you want to work out theories up there of your own, I am perfectly willing you shall try them, so long as you do not interfere with the general State provisions.

Mr. HAMILL (Cook). But don't you think it is unkind, Judge, to leave us to destroy ourselves, when you could intervene and save us?

Mr. RINAKER (Macoupin). We can intervene and save you providing you leave us the legislature.

Mr. HAMILL (Cook). I thought you were willing to put into this Constitution the most abundant kind of a home rule provision?

Mr. RINAKER (Macoupin). Yes, sir.

Mr. HAMILL (Cook). Which would remove from the power of the legislature the right to interfere as to local matters?

Mr. RINAKER (Macoupin). Yes, sir; I am willing to if you want it.

Mr. HAMILL (Cook). Then you are willing that we should destroy ourselves?

Mr. RINAKER (Macoupin). Oh, yes, yes; your legislation can be speedily changed. One council can undo what the other has done. You won't be destroyed in a couple of years, or four.

Mr. HAMILL (Cook). Do I understand that your reason for believing that Cook county should be limited is that it is so large, or that it is so wicked?

Mr. RINAKER (Macoupin). I have never charged Chicago with being wicked. I am not in that bunch.

Mr. HAMILL (Cook). Then it is mere size, is it?

Mr. RINAKER (Macoupin). I beg your pardon?

Mr. HAMILL (Cook). Then it is mere size, is it?

Mr. RINAKER (Macoupin). It is the size, the congested nature of the population, and the utter impossibility of so enormous a body of people as live in such a city to have that acquaintance with and discrimination in the selection of their officers that is inevitable in the smaller places.

Mr. HAMILL (Cook). Well, the bigger it got, the worse that would be, would it?

Mr. RINAKER (Macoupin). I believe that is a fact.

Mr. HAMILL (Cook). So that if Cook county should in the course of time have a population of 30,000,000 and down State should continue to have something less than 4,000,000—

Mr. RINAKER (Macoupin). Oh, well, that is impossible.

Mr. HAMILL (Cook). Well, now, wait a minute—you would still insist that the representation of the 4,000,000 in the legislature should be larger in number than that of the 30,000,000?

Mr. RINAKER (Macoupin). Mere numbers wouldn't make any difference in the principle, Mr. Hamill.

Mr. HAMILL (Cook). Then you would answer my question in the affirmative, I take it?

Mr. RINAKER (Macoupin). I think so.

Mr. HAMILL (Cook). Thank you.

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. The delegate from Schuyler, Mr. Jarman.

Mr. JARMAN (Schuyler). Mr. President, as a matter of personal privilege: The gentleman has stated that I misquoted the case which I read. You will take note that I quoted the very language of the case itself, and nothing more.

Mr. HAMILL (Cook). I understood the gentleman to say that the case held that the Supreme Court had held that the provisions of the Constitution which apparently requires the legislature to redistrict the State every ten years was not mandatory, but left it to the discretion of the legislature. Did I misunderstand the gentleman?

Mr. JARMAN (Schuyler). No, sir; you did not; I said that, but in spite of that, I quoted the opinion, the very words of the opinion itself.

Mr. HAMILL (Cook). Well, the gentleman quoted words which say that the legislature may do so and so.

Mr. JARMAN (Schuyler). That is what the opinion said.

Mr. HAMILL (Cook). Now, the question before the court was this: There were two questions in that case. The Constitutionality of the Act redistricting the State in 1903—in 1901—was challenged, first on the ground that the legislature had redistricted the State in 1893 and therefore ten years had not gone by; and the question went up from Governor Fifer's (McLean) county, and it was asserted that because the Constitution required the State to be redistricted every ten years, and as only eight years had gone by since the last redistricting bill, that therefore the Act of 1901 was unconstitutional. That was the first point. The second point made was that the apportionment made by the Act of 1901 did not conform with the constitutional requirement that the territory should be compact and contiguous.

The Supreme Court held the first point not well taken, and held that the legislature should redistrict the State every ten years, and said it may redistrict the State every ten years, and that is the language which the gentleman read. The question of whether the provision of the Constitution was mandatory was not before the court and was not decided.

Mr. TRAUTMANN (St. Clair). Mr. President.

THE PRESIDENT. The delegate from St. Clair, Mr. Trautmann.

Mr. TRAUTMANN (St. Clair). Mr. President and Gentlemen of the Convention:

I would have much preferred if I had had my choice in this matter, to have followed the distinguished gentleman from McLean (Fifer), but for some reason or other it has been shifted, and I have my suspicions as to just why that was done. Now, I will try not to say anything that will arouse the ire of the distinguished gentleman, so that he will not have any particular occasion to reply to any remarks that I may make. I do not, however, in my remarks expect to convince him that he is wrong. He may have hopes of convincing me that I am wrong, and I am always willing to take the advice and the judgment, as far as possible, of one of his years and experience, and I am sorry that I cannot go with him on this proposition. He may be right, but thus far I have not been able to make myself believe that his position is fair. Time alone will tell whether or not he is right or wrong, but as long as I feel that the position taken by him is not fair to a large part of the population of Illinois, I do not feel that I would be justified in going with him.

I want to say that I am one of the members of this Constitution that has very little personal interest in this matter, so far as his individual district goes. There has been no proposition submitted here or seriously considered that has in any way affected the representation from St. Clair county. It makes no difference whether you keep the present Constitution and apportion the State every ten years; we will no doubt continue to have the same representation that we have had for sixty years. If you adopt this county representation plan, St. Clair county is the only county that will have three members, and it has had three for over a half a century. Any other plan leaves us with three, so it is not a question with me as to how many members we might get; and I believe the increase in population in the future in that county will give it practically the same representation under the county plan and the plan in our present Constitution, or in any other plan that has been seriously considered here.

But there is the question of how it affects the State, and how the people of this State should be represented in the law-making body. As you gentlemen all know, I have had a little experience in the legislature in this House, and I came here with the firm conviction, like the distinguished gentleman from Schuyler (Jarman), that this House should not have more than 105 members. He introduced a bill, if I am not mistaken, that provided for twenty-five Senators and one hundred House members, and at the time I understood he was for it. Now, of course, if you only have one hundred members, it would take quite a mathematician to figure out how you could have a member from each county of the 102 counties.

The gentleman from Macoupin (Rinaker) this morning told me that he thought the gentleman from Schuyler (Jarman) had made a very able and

distinguished address. In reply I said I agreed with him that he had; that it was necessary for him to do so because he had to convince himself of the change in his attitude. It may be that he is right now and that he was wrong then; but I submit to you that for a good working organization in the House, there has never been composed a better organization or a better body than a Convention like this, with 102 members. This plan submitted here starts out with 173 members. You will have about 188 or 189 in ten years from now, and you will have 200 members in twenty years from now. You will soon have a New England town meeting, in your House of Representatives.

I asked the distinguished gentleman from Schuyler (Jarman) a question this morning as to why, if he really believed that these grave and dire conditions would be foisted upon the people of Illinois by Cook county eventually getting control of the House of Representatives, why he was in favor of county representation. According to the statements made by the gentlemen from Knox, Mr. Gale, if the same ratio of increase of population in the next thirty years will obtain as it has in the past thirty years, Cook county would have control of your House under county representation, and then we would have all these dire things happen to us, at that time. So if that is true, his argument is not sound there. Then, in order to prevent those conditions happening, you must strictly limit Cook county in both houses.

The gentleman from Macoupin (Rinaker) has asked a question, waited for an answer, and no one replied to it as to whether or not anyone here knew of any state in the Union that ever abolished county representation that had once adopted it. I presume not, and if this Convention ever adopts county representation and the people approve your Constitution, no one will ever live long enough to see the time when it will be changed or rejected; and I will tell you why, because in the next Constitutional Convention no doubt there will be two members from every senatorial district and you will have two-thirds down State, because that is how you are fixing your Senate, and that is how you will fix the representation no doubt in your next Convention, and of course two-thirds of the down State would not give other counties representation, against the one-third from Cook county.

Now, the historical part of Constitution making on this subject has been gone over by speakers on both sides and it is needless for me to refer to it, but I believe this, gentlemen, that we have a problem to solve entirely our own. Something might be good in New York, a plan or scheme of representation, that might not fit Illinois. I might be for county representation if Cook county was not in Illinois and we had a State like Iowa. Do you gentlemen know that Illinois, outside of the County of Cook, has more people in it than the great state of California or the great state of Missouri, with all their great cities, and with not any city in this State of 80,000 inhabitants? That scheme might work if you did not have Cook county.

Do you gentlemen know that, when you are talking about county representation, Cook county has more people in it today than any other county in the world, barring none. Perhaps you don't know that the city of New York, while it is greater in population, is in five counties. And do you know that the city of London is in three or more counties? If I am not mistaken, it is in five. So that makes us face the proposition of the most populous county in the world, and 101 counties outside that have more people in them than any other state in the Union except ten; and you have got to meet the conditions as we find them in Illinois, and not as they are found in Iowa or any of the other states that have county representation.

Now, gentlemen, it is all right to talk about the people controlling, but sometimes it is fair to let the folks have something to say about it too, and in this case I don't know whether the people live down State and the folks in Chicago, or the folks live down State and the people in Chicago. I believe this, gentlemen, and I think everyone here believes it, and I am talking now to the gentlemen not only from the down State but from Cook county, and I believe that they have the interests and the welfare of the

people of Illinois at heart as well as the people of the down State, and that is this, gentlemen, that unless this Constitutional Convention brings forth a proposition that limits Cook County in some respect, and then has that Constitution adopted, that this is positively the last chance that you have got in Illinois for limiting Chicago at all, and you are facing the proposition of either compromising fairly or having no limitation—or violating the Constitution.

Now, gentlemen, as Mr. Hamill (Cook), has said, according to this decision the Supreme Court was not called upon to pass upon the question as to whether or not the legislature was compelled to reapportion. But as the years go on, the disproportion between the population of the different districts, if they are not changed, will be very great. Some will be very small and some very large, and the time will come—I will make this prediction—the time will come in the future when the representatives from the larger counties down State will join Cook county, and you will have a reapportionment. Whenever that happens, you will have to reapportion according to the provisions of the Constitution, and that will give Cook county a majority in the House and the Senate, and unless you get a new Constitution, that will give Cook county a majority in the next Constitutional Convention, if you ever have one.

Now, carrying that statement a little farther on, with reference to this being our last chance to limit Cook county, you gentlemen all know that Cook county today has over one-third in the House and in the Senate. You also know that you cannot pass a resolution to amend the Constitution without it receiving a two-thirds vote in the House and Senate; neither can you pass a resolution for a new Constitution without two-thirds; and do you think for a moment that when the resolution comes up before the House or Senate to limit Cook county in the legislature by amendment to the Constitution, that the Cook county members will vote for it? No, no more than they are voting for it in this Convention. So it seems to me that they have made a great concession at this time when they are willing to take a Senate composed of one-third. And now, by giving them a Senate of one-third, the down State was very liberal with itself, and added six new Senators, and took them all. Very generous, and today you are providing for a Senate of fifty-seven members, which is the largest Senate in the United States, in any of the states.

Mr. RINAKER (Macoupin). Do you think Chicago would give up the six that it has and take one-third that way?

Mr. TRAUTMANN (St. Clair). I think so, and they are just as well off; one-third is one-third, whether you have seventeen from Cook county or nineteen.

Mr. RINAKER (Macoupin). There would be six fewer jobs.

Mr. TRAUTMANN (St. Clair). Six fewer jobs down state, that is true.

Mr. RINAKER (Macoupin). There are nineteen now.

Mr. TRAUTMANN (St. Clair). It would be two fewer in Chicago and four fewer down State.

Now, gentlemen, I am sincere about this, when I say I believe we have reached the stage in these proceedings where we have to talk about a compromise. I don't believe we can pass a Constitution here that will be approved that will limit Cook county in both houses strictly. Neither do I believe that you will ever get a Constitution approved by the people that will limit Cook county in either house. Now, then, we have reached the stage where we have to meet them half way on the House, when they have one-third in the Senate, and I believe, gentlemen, that it is fair that the majority of the people should have fair representation.

If you are not going to give them control, and I am not in favor of giving them control in both houses, and if you are not going to give them the control in both houses when they have a majority of the people, then I believe they should at least have fair representation in one house, and personally I have been in favor of the proposition that was suggested here or referred to here, rather, by Mr. Gale (Knox). He has shown you how that will work out, estimating the population for the future, basing the representation in the House upon its voting population, and limiting the House

to 153 members, and as he has said, that is fair to Cook county and they cannot object, because it is just as fair to the down State. If you have got a majority of the voters in Cook county at the gubernatorial election, that will be taken as a basis for redistricting and then Cook county would get a majority, and if they haven't got it, they will not get a majority, and they would not be entitled to it.

So I feel, gentlemen, that in view of the fact that we are here trying to give a new Constitution to Illinois, we should do this, and I do not agree with the distinguished gentleman from Macoupin (Rinaker), when he tells you that the people who want a new Constitution are the people of Cook county. If I am not mistaken, I have heard him say himself that one of the great reasons and demands for a new Constitution was to give us an opportunity to limit Cook county in the legislature, and I would not be surprised but that that was the controlling factor when the legislature passed the resolution, because it was the same legislature, or one of them, that refused to reapportion the State, under the present Constitution.

Now, we all know that the two principal, primary factors why the legislature and the people called this Convention together were the question of representation in the House and Senate, and this article on revenue. Cook county might have been further interested in the question of home rule, but those other two are the two questions that were vital to the citizens of Illinois, irrespective of where they resided. So I say to you gentlemen in conclusion that I believe the thing for us to do here is to try and get together and prepare a document that will have some chance of adoption. I will admit that in my humble judgment it is going to be very hard to prepare a document that will receive a majority of the votes in my own county, and I think that is true of some other counties in Illinois; and if you finally submit a document that will be practically rejected by the unanimous representation of Cook county in this Convention, you haven't any chance in the world of adopting it in the little counties of Illinois, because most of the big counties will be like Cook, they will be dissatisfied with a lot of the provisions of this new document. So I say, let us get together and try and fix up a representation in the House that will be fair to both sides; keeping in mind the one-third limitation in the Senate, which I believe is a strict restriction and an effective one, and I never saw the time when men saw the necessity of compromise that they did not succeed in compromising, either in the Constitutional Conventions or in the legislative halls, and they will compromise, because of the House and Senate, the one is controlled by Cook county and the other by the down State; and whenever they do, you will find that compromises are the best kind of legislation that is ever produced. You gentlemen all know that the provisions under which the United States Senate operates are the result of a compromise. You gentlemen who are familiar with the proceedings of that convention know that the larger states did not want the small ones to have equal representation in the United States Senate, but they had to compromise, and they compromised upon other articles and sections in that document, and we are doing it here, and there never was a time when this Convention needed compromises any more than we do now upon this proposition.

Therefore, gentlemen, I ask that in order to be fair to all parts of the state; believing that the down State is fully protected by limitation in the Senate, that we ought to give Cook county a fair chance for representation in the House, based upon its voting population. (Applause.)

Mr. JARMAN (Schuyler). Mr. President, I desire to ask the gentleman a question.

THE PRESIDENT. Will the delegate from St. Clair (Trautmann) yield for a question?

Mr. TRAUTMANN (St. Clair). Yes, sir.

Mr. JARMAN (Schuyler). Did the gentleman introduce into this Convention two proposals on apportionment?

Mr. TRAUTMANN (St. Clair). I don't know whether it is two or three or four. I introduced several.

Mr. JARMAN (Schuyler). Did both proposals contain a limitation of Chicago and Cook county in both houses?

Mr. TRAUTMANN (St. Clair). I don't recall now. One was for a House of 103 members. I might say I am on record in this Convention as having voted for limitation of Cook county in both houses. I voted for the Garrett (Winnebago) proposition.

Mr. JARMAN (Schuyler). Didn't you introduce a proposal by which there was to be twelve senatorial districts in Cook county and forty representative districts, and that the balance of the State should have twenty and sixty?

Mr. TRAUTMANN (St. Clair). I presume I did, I don't remember the exact provisions, Mr. Jarman. That is the provision where I said I was in favor of 100 to 105 in the House, and what is the number in the Senate, 32?

Mr. JARMAN (Schuyler). And in which you gave Chicago and Cook county one-third of each house?

Mr. TRAUTMANN (St. Clair). Possibly I did, yes, sir.

Mr. JARMAN (Schuyler). Didn't you introduce another proposal providing for a representative in each county?

Mr. TRAUTMANN (St. Clair). I don't remember that.

Mr. JARMAN (Schuyler). Well, it is here.

Mr. TRAUTMANN (St. Clair). I might have introduced one of them, after talking with Judge Lindly (Bond.)

Mr. JARMAN (Schuyler). Each county to be entitled to at least one representative.

Mr. TRAUTMANN (St. Clair). That might be true, yes; I might have introduced one of them, but that does not say I was ever for it. I could not be for both. We were preparing proposals and propositions to be submitted, and I presume most of the members here have their own views upon this subject, and they may have varied somewhat, like yours and mine, but as I said before, we have reached the stage now, after two years of deliberation, where we have to meet the conditions as we find them in Illinois, and I believe we can only meet them with 102 men here by giving and taking upon these various subjects.

Mr. JARMAN (Schuyler). One more question: What are you in favor of?

Mr. TRAUTMANN (St. Clair). I thought I stated three times while I was discussing it that I am in favor of a Senate with a one-third limitation of Cook county, and I am in favor as to the House, as referred to by Mr. Gale (Knox), that there shall be 153 districts in Illinois, and that the representation should be according to the voting population; and if Cook county had a majority of the voting population at any gubernatorial election that was used as a basis for representation, then that they would have a majority of the House; and if not, they would not have.

Mr. JARMAN (Schuyler). Both of which propositions are inconsistent with the two proposals you introduced.

Mr. TRAUTMANN (St. Clair). That may be true, yes, sir.

Mr. STAHL (Stephenson). Will the gentleman yield to another question?

Mr. TRAUTMANN (St. Clair). Yes, sir.

Mr. STAHL (Stephenson). Did I understand you to say that no Constitution submitted to the people for referendum would limit Cook county in either house?

Mr. TRAUTMANN (St. Clair). How is that?

Mr. STAHL (Stephenson). Did I understand you to say that no Constitution submitted to the people for referendum would limit Cook county in either house?

Mr. TRAUTMANN (St. Clair). No, I said this: I feel that any Constitution that was admitted to the vote of the people for their approval that limited Cook county in both houses would have no chance of adoption; neither did I believe that any Constitution submitted to the people that limited it in neither house would have a chance of adoption.

Mr. STAHL (Stephenson). You mean separately?

Mr. TRAUTMANN (St. Clair). Yes, sir. The down State would beat one and Cook county the other.

Mr. BARR (Will). Will the gentleman yield to one more question or two?

Mr. TRAUTMANN (St. Clair). Yes.

Mr. BARR (Will). Is your position on this proposition now before this Convention influenced by your views that the Constitution cannot be passed with the proviso for county representation as it appears in section 7?

Mr. TRAUTMANN (St. Clair). Partially, yes, partially.

Mr. BARR (Will). Or are you opposed to it otherwise, whether it can be adopted today or not.

Mr. TRAUTMANN (St. Clair). I am primarily opposed to county representation in Illinois. As I said, I might be for county representation in Illinois if we did not have Cook county; if we had a State like Iowa, where they are more equally divided.

Mr. BARR (Will). You feel, too, you stated, that you were opposed to this proposition because you thought it would not receive votes sufficient to adopt the Constitution?

Mr. TRAUTMANN (St. Clair). That is one reason I stated why I think we ought to compromise.

Mr. BARR (Will). Do you think the alternative proposition should be the proposition suggested by Delegate Gale (Knox) or the wide open proposition suggested by Delegate Shanahan (Cook), or rather that was suggested following his wishes.

Mr. TRAUTMANN (St. Clair). I am in favor of the proposition in the House of basing the representation upon the electorate, rather than upon the population.

Mr. BARR (Will). Do you think, Mr. Trautmann, that the submitting of the two propositions, one of unlimited representation, or rather, representation based purely upon population, in the House of Representatives, and the proposition of county representation would get, either one or the other, the votes of the people, so that the Constitution would probably be adopted?

Mr. TRAUTMANN (St. Clair). You mean submit them separately?

Mr. BARR (Will). Either way.

Mr. TRAUTMANN (St. Clair). I think it makes a vast difference which way you submit them. If you submit them both separately, one or the other, naturally would receive the higher number of votes, unless they happened to be tied, but if you put one in the document, that has the great advantage of being in the document, because it has been my experience in my county that about one-half of the people do not vote on the little ballot or on the side issue.

Mr. BARR (Will). Isn't it a fact that the two or three propositions that were submitted separately in the Constitution of 1870 were adopted over the provisions that were written into the Constitution?

Mr. TRAUTMANN (St. Clair). You mean by a larger vote?

Mr. BARR (Will). Yes.

Mr. TRAUTMANN (St. Clair). I don't know.

Mr. BARR (Will). Is the present article——

Mr. TRAUTMANN (St. Clair). I know this, that the proposition of the present representation in the House was adopted, and it was not a part of the Constitution.

Mr. BARR (Will). It was a separate proposition?

Mr. TRAUTMANN (St. Clair). Yes.

Mr. BARR (Will). And the section that was a part of the Constitution was based upon representation by population or based upon population, and that was defeated.

Mr. TRAUTMANN (St. Clair). It had in it this question of minority representation. That was the contest in those days, as to whether or not you would have minority representation or straight representation, and the minority proposition won, being outside of the document.

Mr. BARR (Will). The section that was in the Constitution that was submitted was defeated, and the section which was submitted separately was carried, wasn't it?

Mr. TRAUTMANN (St. Clair). That is true in that case.

Mr. BARR (Will). You think at this time that a section that is submitted separately from the Constitution and another one in the Constitution would bring about more votes against the Constitution than if they were submitted with neither of them written in the Constitution?

Mr. TRAUTMANN (St. Clair). I would say this, that as far as I am concerned I would prefer to put the propositions I am for in the document. I would sooner take my chances with the document, having it adopted as a whole, than I would as a side issue, because you have got to make a separate campaign for anything on the outside.

Mr. BARR (Will). I am speaking about the superior probabilities of the Constitution being adopted if two propositions are submitted, one in the Constitution and one separate from it. Isn't it probable the people would come out and vote for the Constitution, either vote for the Constitution including the section in the body of the Constitution or vote for the Constitution and the separate section that would go in place of the one in the body of it, if it received the majority of the votes?

Mr. TRAUTMANN (St. Clair). If you have both of them submitted, it would bring out more votes, because it would be one of the live questions that would bring out a large number of votes; because men in favor of county representation would make an extra effort to get out votes, because they would have a chance of having that section defeated.

Mr. BARR (Will). The result would be that a large vote would come out, and one part of the voters would vote for the Constitution and the separate section, and the other part of the voters would vote for the Constitution with the section in that they wanted.

Mr. TRAUTMANN (St. Clair). I agree with you.

Mr. BARR (Will). The result would be the Constitution would receive a large vote, isn't that true?

Mr. TRAUTMANN (St. Clair). Yes, sir. Still on the other hand men may vote against the adoption of the Constitution and vote in favor of one of these sections.

Mr. BARR (Will). Is it likely that they would vote against the adoption of the Constitution and vote in favor of one of these sections, which would result in nothing?

Mr. TRAUTMANN (St. Clair). They might, yes, for this reason: They might be against the Constitution, but they might figure in case it did carry they wanted their particular idea of representation in the document, and they might still be against the document.

Mr. BARR (Will). Well, those people will vote against the Constitution anyway?

Mr. TRAUTMANN (St. Clair). They might.

Mr. BARR (Will). In other words, the fact that this county representation proposition is unpopular in certain sections, if it is accomplished by a section that is popular in the community where the county representation proposition is unpopular, would result rather in a large vote for the Constitution?

Mr. TRAUTMANN (St. Clair). I think I agree with you it would help bring out the votes.

Mr. MILLER (Cook). May I ask the gentleman a question?

Mr. TRAUTMANN (St. Clair). Yes, sir.

Mr. MILLER (Cook). Suppose that the body of the Constitution contained a provision as to representation which a large number of people were opposed to, and suppose that a substitute article was separately submitted, isn't it likely that those and all of those who would prefer to have no Constitution rather than to have this method of representation adopted, as embodied in the draft, would vote against the Constitution and in favor of the substitute, for fear that the Constitution might be adopted as it stood?

Mr. TRAUTMANN (St. Clair). That is the answer I was trying to give Mr. Barr (Will), there would be people who would vote against the Constitution, and yet at the same time would vote in favor of adopting a separate section. I think so, lots of them.

Mr. FIFER (McLean). Mr. President.

THE PRESIDENT. The delegate from McLean, Governor Fifer.

Mr. FIFER (McLean). Mr. President, I am sure the members of this Convention are growing tired of this discussion, and I promise you all that I shall be very brief in presenting what I have to say.

On entering this body a little over one year ago, the gentleman who last spoke against this proposal presented me with a bill or proposal nearly on all fours with the one we now have under consideration. It did not strike me favorably at first, but he was so persuasive and so convincing that I became thoroughly convinced that county representation was the thing, and I was so thoroughly convinced that I am of the same opinion now.

Mr. TRAUTMANN (St. Clair). Thank you for the compliment. I didn't think I could convince you.

Mr. FIFER (McLean). I regret exceedingly that the member from Knox (Gale) injected into this discussion an appeal to industrial prejudice. He wished to know whether I as Governor of the great State of Illinois became convinced that the coal miners and the manufacturers, the toilers of this State were not entitled to fair representation. Now, that appeal, in my judgment, was unworthy of the gentleman who made it, and I believe on reflection that he will regret that he made such an appeal in this presence.

I know of no distinctions between the citizens of Illinois who earn their bread by the sweat of their brow and those who make their living by their wits. I wish to remind the gentleman, however, that so far as the coal miners are concerned, the greatest number of them will be found in Southern Illinois, in the thirty-four counties that have no representatives in the Legislature of Illinois. Manufacturers also are springing up in that region, but we can't bring these question—or ought not at least to bring these industrial questions and prejudices into this discussion.

The gentleman from Mercer (Carlstrom) spent the most of his time in vindicating his position on the question that we have under consideration. His defense as to the honesty of his position needed no defense in this presence, and I am glad to note from the gentleman's own lips that his position has the approval both of his judgment and of his conscience.

Now, Mr. President, when the calling of this Convention was being agitated in this State, the newspapers, the documents that were put out, the speeches that were made and published, all promised that there should be a limitation of the City of Chicago in the General Assembly of Illinois.

I have the President's note and I would very much prefer to adjourn until tomorrow and say what I have to say then. I feel the hour for adjourning is about here. If there is any desire, I will go ahead, but I would much prefer to stop now.

Mr. BARR (Will). Governor Fifer has indicated to me that he would prefer not to talk tonight, and under those circumstances, I move you that we recess until 10 o'clock tomorrow morning.

Mr. HULL (Cook). Mr. President, why can't we go on with this discussion this evening and keep on going on until we get this thing threshed out?

Mr. FIFER (McLean). Well, I would rather not go on tonight.

THE PRESIDENT. The delegate from Will (Barr) moves that the Convention do now adjourn until 10 o'clock tomorrow morning.

(Motion prevailed.)

Whereupon the Convention adjourned until February 1st, A. D. 1922, at the hour of 10 o'clock a. m.

WEDNESDAY, FEBRUARY 1, 1922.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

THE PRESIDENT. The Convention will please come to order. Opening prayer by the Chaplain, Rev. Charles A. Briggs, of the First Methodist Church, of Freeport, Illinois.

THE PRESIDENT. The journal of January 3d, 1922, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no correction proposed, the journal of January 3d, 1922, stands approved.

The special order of the day is the further consideration of sections 6 and 7 of the legislative article.

(Whereupon the Convention proceeded upon the order of special orders of the day.)

THE PRESIDENT. Governor Fifer (McLean), is recognized.

Mr. FIFER (McLean). Mr. President, I read an article from a distinguished member of this Convention which appeared in the Chicago Tribune, thought to be by many the greatest newspaper in the world. The gentleman to whom I refer says in that article that the Anti-Saloon League "discovered" the counties of our State. How my friend, who is usually so well informed, could make such a mistake it is difficult to explain. The fact is counties are as old as civilization itself. I doubt if any civilized government, in the world ever existed that did not include the political divisions which we know as counties. It was a part of all the ancient governments of the world. It was adopted by England and brought to these shores by our forefathers. It came in with our first garments and has continued to persist down to the present time.

He criticizes the Anti-Saloon League for its activity in promoting the passage of the propositions we have before us. I am sorry to see the time when any respectable body of men can be criticised for trying to promote in a proper way any measure of government which they deem for the best welfare of the whole people. Like my friend from Macoupin (Rinaker), I hold no brief for that organization. I know, however, that they are a respectable body of men, highly moral, intelligent and patriotic, and they have a right to be heard in the legislative assemblies of our great State. I have never belonged to that League. I tried once to be a temperance man, but in a different way from most others. I tried to make an attack *in rem* on the infernal stuff, and tried to drink it all up, but I found they could make it faster than I could drink it, and I reformed and have gone out of the temperance business.

Now, the question has been asked by some of the speakers who have preceded me, "Who were the agitators calling this Convention?" I think I can answer that question. As I understand it, it was the Civic League of Chicago, a body of gentlemen highly respectable, entirely patriotic, and who have brought about many good reforms in their city. In fact, a member of that organization very soon after we assembled here, in a signed statement in the Chicago Tribune, as I remember it, claimed the credit for that organization in calling this Convention.

Now, that is preliminary to what I have to say in regard to the promises that were held out by that organization, and practically by the entire community, newspapers and all, of the great city by the lake. It was said in the literature put out by them, carloads of it, in the public press, in public

speeches, that it was for the best interests not only of the down State but likewise of Chicago that they should be limited in the legislative assembly of our State. On the face of that promise that was repeatedly made, thousands and thousands of people down State to my personal knowledge voted for the calling of this Convention, believing that the time had come when some Constitutional Convention should pass upon that question. No talk then about limitation in one house. It was a limitation in the legislative assembly. It takes two houses to constitute the legislative assembly of this State. They held out to us the hope and the expectation that Chicago should be limited in the legislative assembly, which means two houses, and not one; and in that belief, and in that hope, we from the down State came here, believing that there would be no controversy raised over that question. When we come here and ask for bread, they tender us a stone. We hear for the first time that it is quite sufficient to limit Chicago in one branch of the legislative assembly, and we are told that to do otherwise is un-American. We are told that to do otherwise violates the great fundamental principles on which our free institutions rest. Now, I wish to examine that question. I wish to turn it over, and I believe I can show to any fairminded man that the political action of the people of this great country, national and state, rests more upon political divisions than ever it has upon a popular majorities.

Now, that causes us to go back to the very beginnings of our government. Soon after our forefathers landed at Jamestown and Plymouth Rock, they formed colonies. Mark you, now, in this very article and in other publications that have been put forth, we are told that the doctrine for which we are contending is un-American. Let us see. What did the Colonies do, the Thirteen Colonies, from the time they received their charters until the Revolutionary War? I have not especially prepared an argument on this question. I have not for this sole purpose looked up the figures and the history of that period, but I take it from my general recollection from general reading. I claim to be fairly familiar with the civic history of the American people from the first down to the present time.

We find that the Thirteen Colonies up to the Revolutionary War, every one of them, had county representation. That is the first point. That is at the very foundation and the beginning of our free institutions.

What was the next step? When we rebelled and the Declaration of Independence was approved and went forth as a Declaration to our people and to the world, what was done? We had a Continental Congress. How did they vote, and did that government rest upon the consent of a majority of the popular electorate? Not at all. From the time of the Declaration of Independence down to the adoption of the Federal Constitution, the Congress of the United States was controlled by states. Rhode Island, with I think a population of only about one hundred thousand, had an equal voice with Virginia, the most populous colony of them all, having six hundred thousand people. Next came Massachusetts, with four hundred thousand, and they voted by states, and not by popular vote. That great body that fought through the Revolutionary War to a successful conclusion was dominated by political divisions and units, and not by popular votes.

Now, what was the next step? We found the Articles of Confederation to be war measures. They held us together well enough while under the influence and swayed by the sense of a common danger. And so the Federal Convention of 1787 was formed. It is said by men of consequence, learning and judgment on both sides of the water that it was the greatest legislative body that ever assembled upon this earth. Now, what did they do? Of course, the Constitution was, in a sense, a compromise. The small states were jealous and fearful of being overawed by the larger states, and the slave states were fearful that their property would be taken away, and so there were certain compromises; but they preserved still in that great instrument state representation in the Senate of the United States, so that Nevada—with a population of fifty thousand, has an equal voice with the great state of New York, with nearly ten millions of people.

Now, they did not stop at that. They declared in that great instrument that it made no difference what the population of any state might be, they should have at least one representative in the lower House of Congress.

Now, as I remember it, Nevada has never had sufficient population to entitle them, basing their representation on population alone, to secure one representative in that body.

Now, then, you may say that that is only one instance. Why, the Congress of the United States can at any time change the basis of representation, and might disfranchise, but for that provision in the Constitution, nearly every state west of the Mississippi River, sixteen of them in all, excluding possibly Colorado, California and Kansas. Yes, suppose they would say that it shall take a million population to entitle representation in the Congress of the United States in the lower House. They have the right to do it, and could do it but for that provision in the Federal Constitution, and if they did, many small states would be disfranchised. And that is the very principle for which we contend. We want to place a provision in the Constitution of this State that every county, no difference whether it is little Hardin county down on the Ohio River, with 10,000 souls, or the great City of Chicago, with 3,000,000 of people, shall have representation. They in a sense are a sovereignty to themselves. They are a political division of the great State, and have a right to be heard in the councils and the legislative assemblies of the State; not on population, but following the Federal Constitution, solely, because they are a county.

And yet we are told that this principle for which we contend is an un-American principle. Now, it may be said that that was back in the Colonial period. I think my friend from Knox (Gale), referred to that, as the dead past, and we have progressed and adopted new methods and new rules of government in our several Constitutions. Let us examine that. The great state of Virginia, in 1829 or '30, I am not sure which, called a State Constitutional Convention to formulate a new Constitution for that state. In that Convention was the great Chief Justice, John Marshall. In that Convention was James Madison, justly called the Father of the Federal Constitution. With all his experience, with all his learning, he was there. They tried to make him president of the Convention and elected him, but by reason of his age and infirmities he had the good sense to decline, and James Monroe, then having left the Presidency of the United States for only four years, was made the president of that great Convention. Now, there were other great men, because Virginia was prolific in great men in that day. No country, no state, no government in the world, not excepting Athens in her golden period, which existed about four hundred years before the Christian Era, could equal the great men of that great state. One of her most gifted sons has said that although her territory may be overrun by hostile arms and her fields washed into gullies, still the product of her soil has been heroes and statesmen. Now, as I remember it, Patrick Henry was a member of that Convention, I am not sure about that, and other great names; and what did they do? John Marshall, the greatest lawyer that ever spoke the English language, made a great speech against representation based on population. He favored county representation, and county representation was adopted; and I believe that they have it today. And yet we are told that this doctrine of county representation is a new doctrine and an un-American doctrine; that it violates the great fundamental principles on which our government rests. Just the contrary is the truth.

Now, that is the history, and coming down to our own time, no less than twenty-four states of the American Union today have county representation; and yet we are told that it is an un-American doctrine. Eight of the original thirteen colonies have county representation.

When the Federal Constitutional Convention assembled, as it did in May, 1787, how did they vote? Were their votes cast on the basis of population? Not at all. They voted political units. They voted political divisions. They voted by states. New York had three representatives, Alexander Hamilton, Lansing and Yates. Hamilton was loaded down with two nobodies by Governor Clinton, who was opposed to the Constitution and any change in the government; he was always the political Mephistopheles of that period of our history. So Hamilton did not have much to say about our Federal Constitution. The great work of that great man took place in

his own state, when the Constitution was referred to the several states for ratification, and the greatest forensic triumph that ever was achieved by anybody on earth was the time when Alexander Hamilton converted a majority against him of at least two-thirds to a majority in favor of the Constitution.

Now, this being the history of our country, it is easy to be seen that political government, national and state, has been based on political divisions, and not on numbers. There is always a little something hateful about men putting through anything just simply because they have the force of numbers; and there are better ways of settling these great questions that agitate the public mind than by sheer force of numbers.

Now, then, what reason is there for county representation? Go back and re-examine the arguments that were made by the fathers of the Republic in favor of county representation. Now, you gentlemen say that it violates a great fundamental principle of government, one of the sacred principles of our Constitution. Why, gentlemen, if that is true, live or die, survive or perish, you ought to stand by that proposition in toto; you ought never to yield the smallest fraction of any great principle that is vital to the well-being of our free institutions; and yet you come here and yield the principle, but you do not go far enough; and when you yield and say that we can take a majority in one branch of the General Assembly, you yield the whole question; you yield your sacred principles; you yield the vital principles on which our free institutions rest by offering limitation in the Senate. If you believe what you say and still are willing to compromise away the welfare and the well-being of a free people—I was about to say that I could not entertain a very high admiration for your principles.

Now, I have already said that the county division is as old as civilization. Every government in the world that was susceptible of division—has been divided into counties. The great political division in our American government are first, the state; then the county; then the township, and that is as far as history deals with these political divisions, because those below that are so often changed, the school districts and the road districts, that they have not attracted political notice.

Now, other countries besides our own have found it impossible practically to administer civil government without counties. That was true in England, the country from whom we derive our institutions, and it is true here. These counties, great and small, have their county governments. They have their county institutions. They have their county officers. They have records keeping account of the births and marriages and deaths. They have records kept showing the transfers of real estate, both by deed and by mortgage, and other important documents are recorded there. They have courts that administer on the estates of the dead. Every particle of property in these several counties passes through that court sooner or later. They have their county social life; they have their county political life. They are an important integral part of this great State, and I appeal to every delegate who hears me here today that any man passing over a county line from one county to another, so much is he attached to his own county, so closely is it interwoven with his private and political and social life, that when he steps over the line into another county he feels in some sense that he is in a foreign jurisdiction.

Now, another thing. If there is no check placed upon Chicago, where is this thing to end? I can remember, and it only seems as yesterday, when I came down here to enlist in the war for the Union on the 7th day of August, 1851, that Chicago had a population, I believe my recollection serves me right, of only about 140,000 souls. Am I right, Judge Cutting?

Mr. CUTTING (Cook). 109,000, Governor Fifer.

Mr. FIFER (McLean). How many?

Mr. CUTTING (Cook). 109,000.

Mr. FIFER (McLean). 109,000. I got the *ad damnum* too high. I wanted to give you the benefit of the doubt.

Now, within my lifetime, and while my years tell me I am old, I don't feel so, and yet during the active life of one man, I have seen that great city grow from 109,000 to 3,000,000 of people.

I have said before on this floor that in my judgment Chicago is not only destined to be the great city of this continent, but she is destined to be the great city of the world. Her geographical position is greatly in her favor. The seaboard cities of the Atlantic throw their commerce only one way, while Chicago, the center of the great Mississippi Valley, with her arteries of trade running out thousands and thousands of miles in every direction, is destined some day to be the great city of the world.

Now, the lifetime of our Constitution, or at least of the last one, has been fifty years. Presumably if our work is endorsed by the people, what we do will last for fifty years more. In fifty years or a little more we have seen the city grow from 109,000 to 3,000,000 of people. Is it too much to say, is it not reasonable to claim, that in another fifty years, before perhaps another Constitutional Convention is assembled under this dome, Chicago will have eight to ten millions of people? She will have in the near future, speaking of the future in relation to great states and governments, three-quarters of the voting power of the great imperial State of Illinois. Now, what would you gentlemen do? What would you want? What would you think was fair for the best interests of the whole people?

Aristotle, who wrote learnedly upon governments, has told us that any ruler who proposes any theory of government that is opposed to the interests of the whole people is a tyrant. That was his definition of tyrants. Now, I submit—I am not going to call you tyrants, but I submit that any proposition that would suffer this condition to continue about in Chicago is wrong. It is un-American. It is tyrannical. It is placing the power of the whole people in the hands of a single group of people. I don't care whether they are 109,000 or whether they are 3,000,000, they are a group of people; as much so as Hardin county, with 10,000 people.

Now, what would you gentlemen propose? If that time comes you would go out to the station at Chicago, three-fourths of the membership of the Lower House, get on the train and come down here to Springfield, and block any legislation that might be deemed proper for the down State interests.

Now, it was said by my friend from Mercer (Carlstrom) that Chicago blocked the legislation against the Board of Trade. I think it was during the last legislature. Now, my friends from Chicago, we down State people are vitally interested in at least three of your institutions. They do not especially belong to you as a political existence. The same necessity for regulating the stockyards and those great elevators and the Board of Trade would exist, exactly the same, if they were out here on these great rolling prairies. It is not because they are in Chicago. It is because they exercise such vast influence and power over the welfare and the well-being of so many toiling millions of the down State population. Now, if they blocked the legislation in regard to the Board of Trade, why wouldn't they block other legislation of the future affecting other institutions, the stock yards and the elevators? Why, my friend from Mercer (Carlstrom) went into a perfect spasm of rejoicing that the Chicago contingent, standing as one man, had saved the great markets of the United States and the markets of the world. Now, I think the gentleman wasted a great deal of enthusiasm for nothing over that question. If the bill had passed, it was not blood poison; it was only a flesh wound, and the legislature could have repealed the law, and the wound would have soon healed.

But let me ask, you farmers, you men who believe in agriculture, you men who believe that our agricultural communities are the chief stay and anchor of our free institutions; if they wanted to regulate the stock yards, if Chicago had a two-thirds majority how do you think they would get along with a bill of that kind. Now, I have nothing against the gentlemen running the stock yards; they are clever gentlemen. I know most of them. Some of them have been my friends, and I would not say anything harsh of them. The Bible, however, never uttered a greater truth than when it said that money, the love of money—not money, but the love of money, is the root of all evil. I have no quarrel with rich men. We are living in an age of great wealth and commercialism; we are laying the broad foundations on which coming generations are to build a higher and a better civilization. I know

you can't build a high civilization on squalor and poverty. Human nature is grasping and avaricious and unless restrained by law will rob and oppress the people. How will you ever regulate these institutions with an overwhelming majority from Chicago in the Lower House? These are questions in which the farmer is vitally interested.

These elevators are necessarily regulated, in the most rigid form. They are required by your statute, either daily or weekly to post notices as to the amount of grain and the kind of grain they have stored, and they are not permitted to mingle bad grain with good grain, and there are many other regulations that are vital to the interests of the agriculturists of the great State of Illinois, but you can never, in my judgment, regulate them while Chicago controls one house.

Now, what else? You say you want representation. Yes. Our proposal gives you about sixty?

Mr. LINDLY (Bond). Sixty-one, I think.

Mr. FIFER (McLean). Sixty-one. Now, I think that is a pretty good representation, and I think you would be about as well represented as though you had a thousand; and I want to call this to mind, that Chicago, for the most part, has a single interest. It is a commercial one. They were a commercial people, and what one Representative knows, they all know. They haven't a diversified interest. They have manufacturing, yes, but that is commercial. It is trade, it is commerce—and that is the single interest that the Representatives from Chicago have to represent in the lower House of the General Assembly. With the down State it is different. We have grain growing, grain selling, grain marketing, we have stock raising, fine stock and the common herd; we have horticulture, we have mining, we have various other industries.

The question was asked by my friend from Knox (Gale), as to whether the miners of northern Illinois were not as good as the other people of the State; that was the substance of it. Yes, but the miners in the vicinity of Chicago are no better and no worse than the miners of southern Illinois, where the greatest coal mines exist west of the Allegheny Mountains, and the best coal is mined. The veins are fifteen feet thick down there, and they mine by machinery.

Now, the question is, if you give the northern part of the State an undue and an unnecessary representation, it must be at the expense of the southern portion of Illinois. That is undoubtedly true. And if Chicago should grow, as we all hope and believe it will, it will soon have three-quarters of the representation in the lower House. Now, you can't make that House large simply to accommodate politically the different portions of our State. It must be brought and kept within reasonable limits, however, and when we do that, as fast as Chicago gains a new Representative it is taken from the southern portion of our State, where most of the small counties exist, until the time would come when there would not be a half dozen Representatives south of Macoupin county in the State of Illinois. Now, will anybody contend that that is for the best interest of this whole people? I ask you gentlemen from Chicago when you go home to take some of your radical opponents of our proposition up to the roof of those twenty story buildings. Let them get up high on the top. Get a telescope, if you please, and look down over the great State of Illinois. Look beyond your own little county limits, and in your breadth of view and in your generosity and liberality, take in the whole of this great State. Let them see these rolling prairies, these great oceans of fertility and beauty, where schoolhouses and churches are never out of sight, a region filled with intelligence and wealth and all the progressive ideas of our modern civilization. Let them see the growing corn, the waving fields of grain, our cattle grazing in field and meadows. Let them behold our beautiful groves and lakes; and then let them answer the question to their conscience and their God as to whether it is for the best interest of the whole people that one county of our State should have the power to make laws and future Constitutions for such a country and such a people.

Now, there is this sad spectacle, that may not have very much influence with some, but it appeals to me very strongly. The ancestors of the people from southern Illinois who will suffer most if this proposition fails, came into that country in the pioneer days; they drove out the deer and the wolf and savage men, and laid the foundation of the splendid civilization that that were bequeathed to them by their fathers. It seems almost the tyranny we see around us today. They, many of them, are occupying the homes of fate that those men, whom Lincoln loved and from whom he springs, should be practically disfranchised in one branch of the legislative assembly, by giving its representation to a city that was built after the battle of the pioneer days was fought and won.

Now, I am not going to criticise the city government of Chicago. I have no quarrel with the governments, the particular men and the particular administrations of any of the great cities of this country of ours. I war against the system, and I declare that there is not a statesman today who is worthy of the name that does not know that republican government in our large cities is a failure. It has been true in other portions of the world. The experiment of city states has been tried in Greece and in Italy, a single city exercising the whole powers of a sovereign state. They failed, and in the eternal nature of things they had to fail, because they were built on an unsound principle. Those states composed of cities alone have passed away, and as has been said they are now buried in the vast cemetery called the Past, and this will be our fate if our large cities get control. The one dark spot that I see upon our political horizon is the rising influence and political power of our great cities, and unless something is done, to arrest this influence, either liberty or civilization must perish in this great land of ours. If the lid at any time, day or night, could be taken off of any of the great cities of the continent, and the people of this country given a look-in, their moral sense would be shocked. What a horrible spectacle of crime, of vice, of degredation, the ruin of men, women and children, they would behold. And they would behold also places where crime and murder stalk forth at noon-day. I do not condemn the men in authority in these cities. It is the system I condemn. Now, I know that the vast majority of the people in our great cities, and especially is this true of Chicago, are intelligent; they are virtuous, and are worthy of all praise. I know they have their libraries, their halls of learning and their galleries of art; I know that their civilization is very high; I know too that the diamond of their splendid civilization is greatly dimmed by the degredation and the crime that is found in the dens of vice and the sink-holes of crime, in that great city.

Now, another thing gentlemen, We have given you, at your own solicitation, absolute power to legislate for yourself in Chicago. In other words, we have given you home government. We have cut you out and set you aside, as it were, as an independent State. That implies that you have rights and interests there that do not concern us down State people. I wish to say that I voted for every proposition that you wanted. I said at the beginning that I would go with you in your local self-government up to the point where it interfered with the rights and the interests of the people down State. Now, we have given you that. That implies that we cannot thrust our hands into your affairs and interfere with your local concerns. It argues that you have rights there that concern you alone; and I ask you to make the same concession to the people down State, because we have rights and we have interests that do not concern you, except indirectly. Your representatives, or the most of them, know but very little about our industries. Your men that you send down here, even though you should send a hundred in the Lower House, could not distinguish a pig from a goat. Many of them could not tell on which end of the cow the horns belong; and yet you want to take away from us the legislative power to pass laws in our own interest.

Now, gentlemen, I have talked much longer than I had intended, too long, I fear, for my own good. Now, in conclusion, friends, let us rise above county lines. Let us look beyond these local limitations and keep steadily in view the interests of the whole people. My friends down State, let us stand by our convictions, and if we do this, I hope and believe this

proposal which we have before us, and which is so vital to the interests, as I believe, of the great future of our State, will become a part of the fundamental law of Illinois. That done, we can then, indeed, turn our faces in hope and confidence towards the great future of this great land which the fathers have conquered and bequeathed to us as an inheritance forever. (Applause.)

Mr. FYKE (Marion). Mr. President.

THE PRESIDENT. The delegate from Marion, Mr. FYKE.

Mr. FYKE (Marion). Mr. President and Members of the Constitutional Convention:

I regret exceedingly my inability to agree with the majority of my down State colleagues upon the question at issue. I feel deeply the responsibility borne by a member of this Convention to his conscience to his constituents and to all the people of the State, and beyond all these, to the people everywhere.

The people of the world have a right to look to Illinois for leadership in principles of government. They have a right to expect from this distinguished body a charter of government which clearly bespeaks democracy, the rights of man, and equality before the law.

In the ultimate analysis, a democracy will provide a government no better, no worse, than is deserved by its electorate.

In my judgment, no man is wise enough to predict to what ends we will be led by the precedent that is sought to be established here. The voters of this State are too intelligent, too well-grounded in the fundamentals of Americanism to suffer disfranchisement and repression. They know that its success in one quarter offers encouragement for attack from other quarters. They know, too, that the abuse of power by any group, political or economic, which finds it is temporarily in a position to exert such abuse, furnishes of itself the means for its own destruction.

No combination can be made to exalt the political privileges of one group of citizens, to the degradation of the privileges of other groups of citizens, that can endure for long against the well loved American principle of fair play.

I have no fear of sectional domination. Human nature is essentially the same in the cities as on the prairies. There should be no such thing in Illinois as an American voter with an abridged or modified voting power.

On the walls of my study at home, there hang the pictures of three great American Presidents. The words and works of these great men constitute my governmental Bible. They believed in the people and trusted the people. In the center of my group is the picture of the immortal Lincoln, who looks down on me there as he looks down upon this body of men today. It was Lincoln who said, "No man is good enough to govern another man without that other man's consent." He told us that the Declaration of American Independence breathed the hope that some day those protecting principles would extend to all men everywhere. He believed that representative government, no taxation without representation, and equality of men before the law were enduring principles, which must constitute the foundation and framework of a democracy.

Shall the great commonwealth of Illinois, the State that gave a Lincoln to the world, stand in repudiation of those principles? Shall we register a fear of a State government elected by the vote of all the people? What does it matter that the constitution-makers of New York or Ohio or Mississippi were willing to sacrifice the principles of Jefferson and Lincoln to considerations of political expediency? Can this body of men find justification for sectionalism or provincialism because it was exercised elsewhere?

Gentlemen from down State, I should like to go along with you, but I cannot get the consent of my conscience to the support of this article. To my mind, the "easy alliances" of those of us who favor no modification of the right to vote, are alliances that join our minds and our hearts with those fathers of our government whose enduring principles I cherish and revere. (Applause.)

Mr. L. C. JOHNSON (Henry). Mr. President.

THE PRESIDENT. The delegate from Henry, Mr. L. C. Johnson.

Mr. L. C. JOHNSON (Henry). Mr. President and Gentlemen of the Convention:

I have followed this debate with considerable interest, and we have all been instructed in the various speeches that have been made, beginning with the learned article by the delegate from Schuyler (Jarman), and continuing throughout yesterday and today up to this hour. I do not feel that anything that I can say at this time, or perhaps anything that can be said at this time, will cause a vote to be changed or influence a vote one way or another; but I do feel that it is incumbent on us to express our positions on a matter of so vital interest to the State as is the restriction of the representation of Cook county. Nor do I wish to take the time to hand bouquets to our esteemed and beloved delegates from Cook county. We realize the high-mindedness in this matter, as well as other matters that have come before the Convention. However, it seems to me that it is a serious matter for the State of Illinois when one county shall attain and have a population that it is capable and so that it can rule and overrule all of the other 101 counties of this State.

Counties and cities are creatures of the State, and when we admit that proposition, it does not seem that any one creature of the State should tell the rest of the State everything and have the power to vote on all questions in such numbers that they predominate.

Our friends from Chicago object and say that the rest of the State should not dominate and force legislation upon Cook county; but I submit that the fact that delegates and legislators in our legislature from 102 counties, if their numbers are so great that they have the power to legislate for one county, that it is a different proposition than for one county to legislate for the entire State.

We have heard a great deal about representation in this debate, and we are all, I take it, in favor of representative government, but we must admit that perfect and equal representation as between man and man has not yet in this country, in this State or in the United States, been possible. We know that there are Congressional districts in the United States with a small population that sent a representative to Congress that has equal power with another representative elected by votes perhaps several times the number of the first; and so I say if we preserve representative government, it is not material in my mind that every man should have equal representation with every other man.

The plan presented at this time of county representation seems to be the only plausible plan on which the down State can unite for the purpose of restricting a large county; and for one, I am heartily in favor of it and believe that for the welfare of all Chicago and Cook county should be restricted, not that we wish to impose legislation upon them, but that they may not be able to impose legislation on the rest of the State.

I think we are all agreed that we should have diversified representation. Some suggestion has been made, not on this floor, that there should be representation by trades or by groups of men; for instance, that miners should have representation and that the agricultural interests should have representation, and that manufacturers should have representation, and that perhaps employees, office employees, should have representation. The purpose of all this is to have diversified representation, and so that not any one group of men nor not any one locality should have the power to legislate for the entire State.

I have followed carefully the arguments that have been advanced on both sides of this question, and so far as I can see it, the objection to county representation on the part of the Cook county delegates is merely that of representation by numbers. We have heard this phase of the question ably discussed, and I do not wish to take up the time of the Convention in going into details on that subject. I believe that with the alternative provided in the Constitution as it is proposed by the proponents of the county representation plan, that the subject can and will be decided by the people with intelligence, and that the rights of Cook county are fully protected.

We have heard a great deal about compromise, and I would say this: That if the representation of Cook county or of any other county that shall be so large that it can dominate the State can be provided in some better manner than by county representation, I would be glad to consider a plan of that kind; but so far, nothing of that kind has been proposed, and I am in favor of the county representation plan as being the best way, at least now before the Convention, of restricting the representation of Cook county. I realize that the Cook county people look at it from the viewpoint of Cook county citizens, but I wonder what the Cook county or Chicag residents would think if there was some large sky scraper in the City of Chicago capable of housing so many people that the people residing in that sky scraper could dominate the entire politics of Cook county, and that when they came down in the morning on their way to work they would have a polling place provided in the vestibule, and that they would have voting machines and simply spend a minute or two in turning the crank and registering their vote, and in the short space of time of an hour or two the votes would be cast, from that one sky scraper, to dominate the entire City of Chicago. I wonder what the rest of the citizens of Chicago would think of that kind of a scheme.

I believe that some of the delegates from Cook county—and in fact they have proposed and are willing to submit to limitation of representation in the Senate, which to my mind indicates that in a measure they are willing to concede the fairness of the entire State having representation so that it cannot be dominated by any one section of the State.

I believe, gentlemen of the Convention, that this matter has been discussed so thoroughly and that the delegates are ready to vote, and I, for one, gentlemen, do not wish to take up the time of the Convention in talk, which I do not believe can convince any delegate to change his vote at this hour, but I do earnestly hope that the county representation plan will carry. (Applause.)

Mr. CUTTING (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Judge Cutting.

Mr. CUTTING (Cook). Mr. President and Gentlemen of the Convention: It was not my purpose in attending this meeting of the Constitutional Convention of Illinois to again burden its members with any remarks of mine, but it seems that in a certain sense the remarks of some of the gentlemen from down State have taken a personal direction, and as I have been specifically mentioned upon the floor as one who has done something that at least did not meet with the approval of the gentleman who mentioned me, I feel that as a matter of personal privilege I should speak, and I shall also in some poor sense attempt to present in my own weak way, the feelings of some three million people who happen to be so unfortunate as to reside in the northeast corner of the State of Illinois.

I do not know just why I should be permitted to be here, because I think, if not definitely stated, at least in every speech that has been made by my friends from down State, we of Cook county have been referred to as in some sense apart from the other people of Illinois. We had supposed that we were citizens of Illinois, having all the rights, the privileges and the duties of a citizen of this great State; and if I may return the compliment which has been repeated here that you people from down State are proud of the great City of Chicago—and I assume, of course, that that pride includes our tremendous iniquity, including its crimes and other things—we, too, are proud of our citizenship in Illinois, and we wish to remain a part of it, and we do not wish to remain as in any sense a conquered province, the government of which has been taken over by those who are by the right of might better able to administer our affairs as citizens of this State.

I have heard with much interest the suggestion of home rule for Chicago, and home rule for Chicago is a perfectly proper and advisable thing in those things in which Chicago can have home rule properly; but do you suppose for a single instant that we can have one rule for the making and the organization of corporations, if you please, that does not apply to the whole State? Can we have a criminal code in Chicago that differs in any way from the criminal code in the whole State of Illinois? Can we have any general laws

of the State applicable here, and not applicable there, and are we not entitled to have something to say about those laws, which are just as applicable to us as they are to you? In fact, ought not the citizenship of the City of Chicago be equivalent to a citizenship in the State of Illinois; and there can be no equivalent citizenship unless the vote of the individual citizen of Illinois is located just over the county line from Will county shall have the some potential force, of course with slight variations necessary in an apportionment, that the voter on the other side of that line shall have?

As a proposition, you would say that it was fallacious for anybody to contend that a person who lived in DuPage county should not have the same political right as the person who lived in Will county, and yet you say to us that we shall be restricted in our rights because there are so many of us.

The one foundation stone of all this objection to Cook county domination, so-called, is that Cook county as a great, big, tyrant, having in view the destruction of the rest of the State, is going to vote as a unit, not for the benefit of the State of Illinois, but for the selfish interests of Chicago, and to the destruction of the remainder of Illinois. I deny that proposition, and I defy anybody to bring proof of any sort that that is true.

The people of the City of Chicago and the County of Cook—and they are not the same thing; the County of Cook is by far the largest county in the State of Illinois, leaving Chicago out of it; it has a population of 350,000 people, and is the second agricultural county in Illinois in addition to that, and yet we are all thrown in together, the city and the country just the same in this proposition to limit the potential power of the ballot of citizens of this State.

Gentlemen, I want to pay you the compliment, because it is so intended, that you have so considered, and as it were, stewed, over this proposition of the limitation of Chicago, until eloquent gentlemen, men of force, men of great political experience, men in whose judgment I have all sorts of faith, men who on a jury would be impartial, men who sitting upon the bench would hand down opinions based upon the law without a trace of prejudice, have nevertheless gotten themselves into a frame of mind where they honestly and candidly are of the view that it is for the good of this State that it should be ruled by the minority. I cannot conceive of how a man who believes in the fundamental principles of American government can so twist his political conscience that he can bring himself squarely up to the proposition—and not one of you has yet done it—and announce that you believe that it is good politics, good citizenship, that it is well for the State of Illinois, to inaugurate the policy of allowing a minority—aye, not allowing a minority, but putting it irrevocably in the Constitution that a minority must govern, and that the majority must be governed.

Mr. FIFER (McLean). Let me ask you, didn't Abraham Lincoln serve as President four years against a majority?

Mr. CUTTING (Cook). Yes, he did, and I am coming to that proposition in a moment, Governor, and I think I might just as well start right now.

This idea that the Federal Government is any sort of precedent for what you gentlemen are proposing to do, in my humble opinion, stated with all deference, is as fallacious as your doctrine of the rule of the minority. The minority sometimes does rule in the United States of America by reason of the fact that our Constitution provides for the election of electors, and that those electors shall elect a President, so that it may happen and has happened that a minority of the people have elected the President. There were, however, three candidates for the Presidency at the time that Lincoln was elected, and he had the plurality, but he did not have the majority; and I want to say to you now that there is nothing in the Constitution of the United States that requires that a minority shall elect a President, and yet you are going to write into this Constitution the proposition that a minority shall rule the State; not that it may, but that it shall rule it.

Now, I have no great objection to county representation. If county representation were put upon the basis of the representation in the Federal Government, I would be for it. If county representation were presented here upon its own merits, that it was for the purpose of getting county representation, you would not see anybody objecting; but here is the real

thing. You do not care about county representation; what you want is that there shall not be county representation from Cook county. What you are after is the limitation of Cook county, and as a means to an end, you are supporting county representation as a disguised method of reducing Cook county to a position which it ought not to occupy by virtue of its population. That is the reason. Of course it is flattering to these small counties in Illinois to each have a representative, and heaven knows I would not put a stick in the way of their having one if it could be done fairly. Let us see how it works.

Our great and good friend here, the Governor (Fifer) has told you about the organization of the government of the United States, and I want to take that up with him right now, and with you. He has compared the counties of the State with the original colonies that entered into the compact which we knew first as the Articles of Federation and second as the Constitution of the United States. Let us do it. Incidentally, he has said that we have conceded the principle when we are willing to be limited—that is, some of us are, and would vote for it—to be limited in the Senate, so that the protection which the down State has so loudly called for can be had, but I will discuss that later.

When the Constitutional Convention met in the City of Philadelphia—and I have not sufficient words or the capacity for expressing my admiration of that wonderful meeting of those wonderful men, presided over by that wonderful man, George Washington; I have no hesitancy in joining in the chorus of approbation—but what do we find there? Thirteen independent sovereignties meeting for the purpose of affecting a union. Are there 102 independent sovereignties in Illinois meeting for the purpose of effecting a union here? Nothing of the sort. These counties are mere artificial parts of the great State of Illinois. The men who met in the Constitutional Convention did not consider themselves citizens of the United States, for it did not exist. Every man of them said, "I am a citizen of New York; I am a citizen of Virginia; I am a citizen of North Carolina; I am a citizen of Rhode Island," and so on through the list of those thirteen states.

And more than that, when that Constitution was made, it was made as the result of exactly the same sort of compromise that has been proposed here. The people who represented old Virginia and Massachusetts and New York and Pennsylvania, the large colonies of the time, all of them said, "We demand that there shall be representation in this new government according to the population of our several colonies." "No," said the little colonies, "We are afraid that you will eat us up alive," as it were. "We are afraid," just as you people say you are afraid, "that some great state like New York or Virginia or Massachusetts or Pennsylvania will so exercise its wonderful power by reason of its population that we can't exist"; and then came the compromise, and with that magnificent compromise was evolved the theory of the Congress of the United States. What was it? First, each independent government shall be represented equally in the Senate, but they shall be represented by population in the House. Oh, but my friend, the Governor (Fifer) says, "Each state was to have one representative in the House," and he refers, as all my friends in and out of the Anti-Saloon League always do, to the fact that Nevada has not a congressional ratio. It has not. The one fraud that was perpetrated upon the American people was when Nevada was admitted into the Union, at the bequest of the silver kings who were taking their product out of the Comstock lode in the days before they knew how many people there were there, and they represented that they had a full congressional representation, and it was admitted. It has been a failure. It is a desert. The Comstock lode was worked out, and I can give the Governor (Fifer) the exact figures; there are but 77,000 people in all Nevada today. It is the one sore thumb we have in our American politics today. It is a shame that it should be represented in the Senate by two senators, and the great state of New York, or the great State of Illinois having each of them but two. It is wrong in principle, but it happened to work out by reason of the provisions of our Constitution. But look at it. It is one state, and there is but one other that is below the ratio, and that is Wyoming, and Wyoming

is growing rapidly and will be at the next apportionment above the ratio, and we will have just one rotten borough state in this Union that is represented in our Congress by two senators. How about it here? Let us take our 102 counties and let us apply it. Why, the county representation plan is proper under two circumstances, first, when the counties are substantially equal and it is an agricultural State, and second, when there are no great cities. Then it becomes a fair thing, and I will assure you before I get through that that is the policy that has been pursued in nearly every state in the Union where this policy is in force.

Now, don't you see that in the Congress of the United States one state, one forty-eighth of the Union, with less than its proper amount of population, is represented, and the result is practically negligent? How would it be in Illinois? Gentlemen, I want to repeat there are nine counties in this State with less than 10,000 people each; there are fifty-one counties in this State with less than 25,000 each; there are eighty-three counties in this State with less than 50,000 each. Now, gentlemen, see where it brings us. If you are fair about this county representation business, you will make the ratio of the lowest county the basis, and you will say, if Hardin county with 7,400 people—not 10,000—if Hardin county with 7,400 people is entitled to a representative, then every other 7,400 people in the State are entitled to it. But that is absurd. You would have a House here that you could not get inside the Coliseum. You could not handle any such a House at all; it is impossible to do it; we have about the right number in this State at the present time. It ought to be lowered rather than raised, so far as numbers are concerned, in order to get the best results. Therefore, instead of having one rotten borough, if you please, like Nevada in the National House, you will have below the 50,000 ratio that you propose to give us and the other large counties, you will have eighty-three counties in this State with less than the ratio. That is the difference. Not only that, but in the Congress of the United States when new states have been admitted, some of them have been admitted with less than the ratio, but what were they? They were the growing states of this splendid west of ours. They were the states that were being built up by immigration from the east and from Europe. They were enhancing in population from day to day, and every one of them has fulfilled the promise of its creation. They have all gone away beyond the amount necessary to give them one, and they are having two and three and four and up to ten and twelve representatives in the House, based on population. How is it here with the counties of Illinois that are before us if we do this? Gentlemen, there are fifty-two of them that have less population today than they had twenty years ago, and there are fifty-seven of them that have less population today than they had ten years ago. Therefore, we are to reward the declining counties and fix them irrevocably in the Constitution, so that no matter where they stop in their downward course, they still are to be represented at least by one, and there are so many of them that in my humble opinion they constitute a menace to the State; not to Cook county, but to the State itself.

I need not go into details and state why that is so, but you can readily understand what I mean when I say that.

Now, let us take the Federal Government as our guide, let us look at it, if you please. A limited Senate, a territorial Senate; and what more could be asked, it seems to me, by our friends of the down State than two men to every one that is sent from Cook county, no matter what the population may be? If that is a surrender of principle, then our forefathers when they made the Constitution of the United States surrendered principles, because they made the Senate territorial and the House on the basis of population. That is exactly what we propose. We will let you have your Senate; build up your bulwarks so that we from Cook county can under no circumstances break them down, in the Senate, and thereby you will have the protection which you have so loudly called for; but let it be so that the House will be a popular House.

Why does that in a sense fulfill the principle? I will tell you why. No proposition, no law, could go through the legislature of Illinois unless it

had the approval of the House; and if that House is a popular House, then the majority of the people have had their say on that proposition, no matter what the Senate may be. Therefore we can hold our heads up and say no law has ever become the sovereign law of Illinois unless it has been approved by a popular assembly, that is the House of Representatives, based on population. I have sometimes wondered how our friends get over that proposition. I still wonder.

Now, I would be perfectly willing, speaking for myself, to accept the proposition that was suggested here yesterday by the gentleman from Galesburg, from Knox county (Gale), that the representation should not be based necessarily upon population, but upon citizenship.

The state of New York, which has been quoted and to which I wish to pay some attention in a moment, the state of New York has its representation based on citizenship, and not on population. That would limit Cook county to a considerable extent, but it is a legitimate limitation. It is a limitation that has sense in it; that is scientific; that is based upon something that applies to everybody in the State, and therefore we would not object to it. If the votes are to be the determining question; and you will notice that you have got that in your Senate proposition, article 6, which precedes article 7 and which you will take up next; that provides for putting it on the basis of the vote,—and personally, I have no objection to that feature of it at all. I would be perfectly willing that the apportionment should be so based. I believe that American citizens should dominate American politics, and I want the representation based on the number of American citizens. So far as I am concerned, I am perfectly content with that situation.

But what is the next proposition? I believe I can assert solemnly without reservation that population has been the guiding star of the State of Illinois in the matter of its representation since its inception as a State. I want to know if it can be possible that anybody can dispute that proposition; and in order that there may be no mistake about it, and that the fathers who have been called upon so generously here to look down upon us in our deliberations—that the fathers may not be misrepresented, I must insist upon the right to read a sentence or two from the things which the fathers have said.

In the first place, I want to read from the Ordinance of 1787. Now, don't make the mistake of supposing that I am saying that this binds this body; it does not, but it shows what the fathers thought were the fundamental elements of American liberty; and I want to read just a bit of it. The preamble is instructive:

"And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics ——" "these republics" you notice; they spoke of the states at that time as being separate "republics" —— "—— their laws and Constitution are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter ——" —— they thought they could bind the future; they could not —— "—— shall be formed in the said territory; to provide also for the establishment of states, and permanent government therein, and for their admission a share in the Federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original states and the people and states in the said territory: * * *

Article 2. The inhabitants of the said territory shall always be entitled to the benefits" —— now, here are the four things that we shall always be entitled to: "the writ of habeas corpus and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law." Four great rights which the people have. "Proportionate representation in the legislature" according to population was one of them.

Now, my friend here the other day undertook to argue his way because he said that the Continental Congress, or the Congress when they undertook

to arrange for a Constitutional Convention distributed the delegates by counties. They did. But what did they do when they made their own Constitution, namely, the Constitution of 1818? All that sort of thing was not their work. What they did was to establish the Constitution of 1818, and in that Constitution what did they say as to a basis of representation? Why, they said this:

"The number of Senators and Representatives shall, at the first session of the General Assembly holden after the returns herein provided for are made, be fixed by the General Assembly and apportioned among the several counties or districts to be established by law, according to the number of white inhabitants." That is population. They were apportioned according to the number of white inhabitants, by counties, if you please; by districts, if you please, but in both instances by the number of inhabitants.

Why, those people had the idea, fallacious I dare say in the minds of a majority of our people here today, that a state consisted of people, and that Abraham Lincoln when he made his immortal Gettysburg speech, was entirely mistaken when he said this was the government of the people, for the people and by the people. It was not. This is a government of counties, for counties and by the counties. Why, the whole mix-up here comes from a mistaken notion that the political entity created by the people of the State is greater, more potent and should receive more attention than the people themselves.

Can you think of such a thing quietly, that the county, the artificial product of this body that sits here, has become a greater thing and its interests as such, as a county, are to be taken into consideration more than the interests of the people themselves? Why, I want to call your attention again to a radical difference between the colonies and the counties of this State. You will remember that after the Constitution of the United States was adopted, that it was referred back to the colonies for ratification. Why? Because they were sovereign powers themselves. Gentlemen, do you propose after you have arranged this Constitution, to refer it back to the counties for ratification? You will have to do it, to carry out your parallel.

Mr. JARMAN (Schuyler). Will the gentleman yield to a question?

Mr. CUTTING (Cook). Willingly.

Mr. JARMAN (Schuyler). In the Constitution of 1818, that Constitutional Convention districted the State, did it not?

Mr. CUTTING (Cook). I suppose it did.

Mr. JARMAN (Schuyler). In that districting of the State, didn't they give, for instance, Gallatin county, with 3,000 population—

Mr. CUTTING (Cook). Yes.

Mr. JARMAN (Schuyler). The same representation?

Mr. CUTTING (Cook). Yes.

Mr. JARMAN (Schuyler). In the House and in the Senate?

Mr. CUTTING (Cook). Yes.

Mr. JARMAN (Schuyler). As they did Madison county?

Mr. CUTTING (Cook). Conceded.

Mr. JARMAN (Schuyler). Whereas Gallatin county had 3,000 population and Madison county had 13,500 population.

Mr. CUTTING (Cook). Exactly.

Mr. JARMAN (Schuyler). Isn't that then to be taken as the proper construction of the language of the Constitution which they adopted?

Mr. CUTTING (Cook). No, sir, and I will tell you why. In the first place, the language of the Constitution denies it flatly, and says that they shall be apportioned according to the number of white inhabitants in each county or district. In the next place, that was done in 1818. There was no census taken until 1820, and they did not have the population at the time they made the apportionment, except as they could guess at it. That is the explanation of it. Now, just as soon as they came out of that uncertain state, and the next apportionment was made, it was made on the basis of population. That is the construction of it. Why, the language does not need any construction, it construes itself. It is on the basis of population, and population only; and when we came to adopt the Constitution of 1845 we carried that provision into it, and it became an integral part of that

Constitution, and it came along up to the Constitution of 1870, and again it was on the basis of population, just as it always had been and just as the Constitution, or rather the Ordinance of 1787 insisted that it should be.

I concede that we had a right to make a Constitution with any kind of a limitation. We might have followed the fathers perhaps in the ante-Revolutionary times and made a religious qualification for voting; we might have made a property qualification, and many of the colonies did; we might have made, as we did for many years, the sex qualification for voting; we might have made the color proposition, as we did for many years; all of which were legal in the sense that they were in the Constitution; but we have put them all away, and we are now going to add to the list of those things, which shall limit manhood suffrage in this day and generation, in this 1922, a year we suppose of enlightenment; we are going to limit it to a territorial limit. We are going to say that people who happen to live in one county of the State shall not have the privileges of the people who live in all other counties of the State.

That our forefathers believed in the doctrine that I am preaching. I think I have shown fairly well; and I will show you that their sons believed in exactly the same thing, for when the Fourteenth Amendment to the Constitution of the United States was passed, they again brought out the same proposition. It is true it was made for the purpose of protecting the colored man in his right to vote, but the colored man was and is a citizen, and the same general rule that applies to him applies to everybody else. The Fourteenth Amendment provides that Representatives shall be apportioned among the states according to their respective numbers, counting the whole number of persons in each state, excluding Indians, not taxed. That is the first provision, they must be according to the number of persons in each state. If that is not according to population, what is it? But when the right to vote at any election for the choice of electors for President, Vice President, Representatives in Congress, the executive, and judicial officers of a State, or the members of the legislature thereof is denied to any of the male inhabitants of such State being 21 years of age and citizens of the United States, or is in any way abridged, then, says the Constitution of the United States, the representation of the state itself shall be reduced in the Congress of the United States.

Mr. FIFER (McLean). And don't it also say: And provided that each state, without reference to disqualification, because it is a state, shall have at least one member?

Mr. CUTTING (Cook). I have said that. I have announced that. I say it again, and I say that all those rules are to be taken according to the circumstances under which they were passed.

I can see many instances where county representation in certain states would be proper, and where it has been adopted. As I said a moment ago, take Iowa, which has county representation. It has not a city in it of over 125,000 people. It is an agricultural state pure and simple, and the counties are of substantially the same size, except that some of the larger counties get some additional representation, as they should. There is another class of states, too, like New York and Pennsylvania, where the number of small counties is very slight, as compared with the whole number, and where it does not affect the general result to any great extent.

Mr. FIFER (McLean). It does affect it?

Mr. CUTTING (Cook). It affects it, of course; one vote affects it, there isn't any question about that. But you take Pennsylvania. Pennsylvania has two hundred representatives in its House. There are about eight counties that are below the ratio in Pennsylvania. They would have some representation, because if they were put into districts they would still be represented; and there are probably four or five more representatives in the House that way than there would be under the strictly popular way of doing it.

Now, in New York, New York is composed of cities, very largely. The county of Erie has three-quarters of a million people in it; and then there is Rochester with nearly 300,000 people; Syracuse, with about 200,000 people;

Utica, with over 100,000 people; Albany, with 100,000 people; great counties, all of them; so that there is no great difficulty about it in a state of that kind.

Here we have a condition that does not exist anywhere else on earth. We have a great metropolis, a county with 3,000,000 people in it, and then we have got, as I have told you before, eighty-three counties that are below the ratio in this State, eighty-three of them. That is a condition that does not exist in New York or Pennsylvania, or Ohio, or any of the states that have adopted county representation. You may as well go back to New England and take Vermont and New Hampshire, which have township representation, and township representation there means in New Hampshire nearly 500 members of the lower house, and Vermont has 248 members in its lower house, a little state like that, with only thirteen counties. It has a small Senate, it is true.

Now, the conditions determine the availability of the plan. Illinois is peculiarly not fitted for county representation. There is not another state that is like it in its situation, not one. There are many other places that are perhaps somewhat similarly located. I have heard always of the city of Baltimore. I wondered that it had not been mentioned here to this date. Baltimore, it so happens, is the only city, so far as I know in the United States, that has more than one-half of the people of the state in which it is located. Baltimore has.

Mr. JARMAN (Schuyler). How about New York.

Mr. CUTTING (Cook). Well, you are right; New York has, but I will talk about that later. Now, let us talk about Baltimore for a moment and we will talk about New York when we get there.

Baltimore, in the apportionment that was made in 1867 was given a certain representation in the legislature, and then it was changed somewhat, ten or fifteen years later, so that Baltimore City now has four Senators out of twenty-seven, and it has twenty-four representatives out of one hundred and six; and I have been receiving from the Baltimore Sun circular after circular that is being sent about in the state of Maryland, in which they are demanding that their representation be very materially increased. They are demanding that that old, outgrown representation, or misrepresentation, shall be wiped off the slate. Think of it! Baltimore, with more than one-half the people of Maryland, having four out of twenty-seven Senators. No wonder they are kicking about it. No wonder they are objecting.

This altruistic principle by which the government of the great cities is to be entrusted to the country does not exist. The people of the cities are not content with it, as I had been led to believe they were, and in the Baltimore papers they had column after column lately objecting to the domination by the rural districts of that state by reason of the county plan of representation.

Now, coming back to New York for a moment, that has a city of more than half the population of the State. In 1894—and this harks back to the point where I have been criticised by the gentleman from Schuyler (Jarman)—I have said here and elsewhere that the attempted limitation of New York was a political scheme, and I repeat it again, and if it be out of order and good policy to make such a statement, so be it. I make it. And now let me prove it to you.

The state of New York before the Constitution of 1894 had a Republican legislature. Now, I am Republican, like most of you, but I know when my party does a political act just as well as you do, and you just watch this and see if it don't work out that way. It provided for the election of delegates to the Constitutional Convention by districts, and then provided for the election of a number at large, so that the whole state voted for a certain number of these gentlemen, among whom were the very distinguished gentlemen, Mr. Choate and Mr. Root. Mr. Choate has gone to his reward; Mr. Root is serving the United States in the present Arms Limitation Conference. Mr. Root is probably the most distinguished lawyer in the United States today; Mr. Choate was. These gentlemen both live in the city of New York. They could not have been elected to the Convention from any district in

New York City; at least they thought they could not, but they were nominated at large, and the county vote carried them in. Mr. Choate became President of the Constitutional Convention, and Mr. Root was the floor manager. Both of them long-settled, dyed in the wool Republicans from the intensely Democratic city of New York. New York—

Mr. JARMANN (Schuyler). May I ask a question?

Mr. CUTTING (Cook). Certainly.

Mr. JARMAN (Schuyler). If it was a political scheme and New York was overwhelmingly Democratic, as you say, how did it come about that New York—

Mr. CUTTING (Cook). —voted for it? All right, I will get to that in a moment.

Mr. JARMAN (Schuyler). —by 50,000 majority?

Mr. CUTTING (Cook). Didn't seven times the residents of New York City vote for limitation in the 1915 Convention?

Mr. CUTTING (Cook). Yes, they did in 1915; 1915 but not in 1894, not one of them. I have a record of that.

Now, I have this to say about that proposition, Mr. Root and Mr. Choate, one as the floor manager of the Republican majority, and the other as the President, allowed that convention to run on for about four weeks, and then they called a caucus of the Republican members, and they put it before that political caucus as to how the State of New York should be re-districted, and the result was this scheme, which is denominated the limitation of New York, and it was put through that convention with every Democrat voting against it and every Republican voting for it. Now, I don't know whether that is politics or not, but it looks like it to me, and I think it is a *prima facie* case.

Those gentlemen and this scheme were denounced in the most unmeasured terms as people who had debauched, as they said, the white pages of the Constitution of New York by putting thereon a pure political move. All right. There were many excellent things in that constitution. There were fine things, and one of them was that it allowed the City of New York many other things, which was just about to swallow all the surrounding territory in order to make Greater New York, and in order to bring about that situation, the constitution was adopted, even by the City of New York, which suffered its loss of representation in order that it might get something in another direction. It did not lose really anything in representation, as I shall show you in a moment, but there was in the constitution something which might in the future limit it. The only limitation came from county representation in the house, and that they had before, so that there was no new thing in that. In the senate they provided this: That no one county should have more than one-third of the senate, and New York at that time was situated in four counties, and they added to that that no two counties should have to exceed one-half of the senate, no two counties contiguous to each other. They might just as well have said the counties in which New York and Brooklyn were situated. One was New York, the other was Brooklyn, and they were soon swallowed up in the Greater New York. New York knew that Chicago was pushing ahead in population and was afraid Chicago would soon be the largest city on this continent, and she was desirous of taking in the adjoining counties. That being so, they soon had four counties in New York, and then in order to be sure that that would be enough, that they would have enough of them, they cut off a piece of New York county and made it into the County of Bronx, and now New York is in five counties, and the limitation is such that if New York were re-apportioned according to the federal census tomorrow it would have a majority in the senate of the State of New York. There would be just half of the senators in the counties of Kings and New York and the county of Queens, the county of Richmond. While Bronx would count with New York, Queens and Richmond would supply two more senators, and therefore Greater New York would have twenty-seven senators, and the rest of the state would have twenty-three. That has not been done, but it will be done, and it will be seen then that New York will have a majority in the senate of the State of New York.

Now, they have no such limitation as you are putting on us, iron-bound. If this county representation scheme goes through, then there will be a possibility that some time in the far distant future we can, if you please, get a majority in the House of Representatives, but you have put the ratio at 50,000, in spite of the fact that there are eighty-three counties in the State that have not that many people in them. If you had put the ratio at 25,000, it would have been much nearer a fair statement, but you did not, you put it at 50,000, and the object is plain enough. You propose for the next generation or two to limit Cook county, and you will do it with that scheme, although after a while we may catch up, but in order to have equal political power in the House, with the three million and some odd thousand—3,400,000 people, down State, we have got to have over 6,000,000 people in the City of Chicago in order to equal you under this scheme. That is, until that time all the people of the State of Illinois will be governed, if you please, by the people who live down State, without regard to what Chicago may do.

Gentlemen of the Convention, it is the saddest thing that I know of in connection with this whole business that the line of demarcation is insisted upon being drawn between Chicago and down State. I would much prefer that we were all residents of the State of Illinois, and we are willing to adopt one law, one provision, one scheme of apportionment for the State of Illinois, no matter where the people happen to live. The whole thing is based upon this great gigantic fallacy.

Mr. FIFER (McLean). Will the gentleman yield to a question?

Mr. CUTTING (Cook). Certainly.

Mr. FIFER (McLean). Is there a solitary state in the Union having a large city such as Chicago, in proportion to the down State population, that has not put a limitation on the city?

Mr. CUTTING (Cook). There are no cities of any consequence that have had limitations put upon them; I will answer you, no.

Mr. FIFER (McLean). There isn't a state that has a large city that hasn't limited it?

Mr. CUTTING (Cook). Oh, yes, there are; I didn't mean to say that.

Mr. FIFER (McLean). Well, where it bears such a proportion as Chicago does to the rest of the State?

Mr. CUTTING (Cook). No, probably no, because there isn't another in the United States like it; that is my answer to that.

Let me ask you, do you know of a case, Governor, where any one city has ever governed a state?

Mr. FIFER (McLean). Well, I know where it would have done so, had it not been limited.

Mr. CUTTING* (Cook). Well, I know, but do you know of one that ever did?

Mr. FIFER (McLean). If you will let me answer fully, I would like to do so. The people took time by the forelock; they saw the danger. There was nothing of this kind. During the Revolutionary War, the largest city, I think, was New York, we had only a population of 35,000, and as soon as these cities grew, and the danger appeared, there were limitations provided against that danger.

Mr. CUTTING (Cook). Have you finished your speech, Governor?

Mr. FIFER (McLean). Yes.

Mr. CUTTING (Cook). Then I will go on with mine.

Now, there has never been in the United States of America a case such as you conjure out of your imagination, namely, a city with more representatives in the legislature than the rest of the state. Therefore, therefore, all that you say about the cities that are likely to occur is purely imaginary, in the sense that you have not a single instance to which you can refer to prove the accuracy of your allegations.

But the great fallacy that I was talking about when the gentleman interrupted me before I stated it, the great fallacy lies in this: You are assuming that the County of Cook is, was and ever shall be, world without end, a unit in its legislative action. If you say that once in the history of Chicago all of the delegates from Cook county voted together, you have told the

whole story of its aggregate action. That all the people down State have voted together on many occasions in this body needs no proof. And when you come to consider——

Mr. DUNLAP (Champaign). Can you cite an instance of that?

Mr. CUTTING (Cook). I can't speak of it now, but you gentlemen have stuck together with wonderful unanimity. Just now I notice signs of a break, the first I have seen. Now, just let me go on with this proposition, please; I am glad to answer questions and will yield to anybody that wants to ask me anything, at the proper moment.

This is the situation. The city of Chicago, with 2,700,000 people—and now, that is not Cook County. Cook County has 350,000 people outside of Chicago, and is the second largest agricultural county in the State of Illinois. That may be news to some of us. It has twice the population outside of Chicago of any other county in this State. Twice the population, substantially. It has all kinds of politics, as you know, and there never has been any kind of politics in Chicago that was so disreputable that it did not find adherents down State. It is divided by the great political parties. Sometimes it votes Republican and sometimes it votes Democratic. The Republican party at the present time, for instance, is slit up the back into factions. The ruling factions in the City Hall and the outside factions that are trying to get together to defeat it have about as much likelihood of getting together on a proposition as the third ward has with Hardin County.

It consists of people of all kinds, the highly educated, the ignorant, the very highest type of citizenship and the basest, as every great city has, and I agree with the Governor (Fifer) in that. Its aims and objects, ranging all the way from that of the employer of labor down to the labor unions themselves, or up to the labor unions, whichever way you choose to say it, are as diverse and different as they can possibly be. It is a manufacturing center, it is an agricultural center, it is a professional center, it is a center of all activities; and I think I can say it without egotism, as I am not one of them, of the best intellects and the brightest minds of the Northwest, which naturally gravitate to a center of population in order to show their ability to do the things for which they are specially prepared.

All these things I mention merely to show you that there is no unanimity there, and there never has been, and there never will be. Cook County has more people within it than thirty-eight of the states in this Union each have. There are but ten states in the United States that are larger in population than Cook County.

"The brightest minds from the country counties naturally gravitate to Chicago," as one gentleman said before the Bar Association in Chicago, and he was for county representation, "and the residuum remain at home." I do not believe that either. I do not believe that either, but I do say that his first statement was probably correct. If they do not go to Chicago, they go to New York or some other great city where they can pursue their activities to the best advantage. That makes no difference, I don't care anything about that; whether they are all common people or whether they are all high-brows is of no consequence. The question is, they are not alike, they are not dependent upon the same industrial concerns; the merchants, the manufacturers, the professional men, the men of leisure who live upon their income, the laboring men, all of them have their different interests, and they do not combine. They cannot, from the very nature of things. My friends who live up in the pleasant shades of Evanston have nothing in common with the mill workers of South Chicago. As I think I have said before, the people who are doing the hard work in the stockyards are not in accord with my friends up on the Gold Coast in North Chicago. There is no community of interests there. But how is it down State here? I had from your own mouths here a moment ago that it is agriculture, agriculture either directly or indirectly; the down State, with the exception of a few manufacturing industries is agricultural, and it is a single interest, and a greater single interest than Chicago can possibly have. Therefore if the majority are to be placed under the control of the minority, they are going to be controlled by a single interest, namely, agriculture, and while agriculture is

a magnificent occupation, hallowed by time and approved by everybody, as it is the source of food and of progress as well, it is not the only thing, and it is unsafe to put the affairs of any government into the hands of a single interest.

I have heard, and I do not doubt its good faith, the statement made here that it is proposed to put as a side issue the proposition of what amounts to manhood suffrage, that is to say, that every citizen shall have his vote and be represented in the legislature, as a side issue. I want to say to you that in my humble opinion, and this is no threat or anything of that kind, that that will result in pretty nearly a solid vote against the Constitution as a whole, because they do not dare take the risk. And, by the way, I have heard some suggestions here that we have been threatening; that we have been somewhat overbearing; that we have been as affable and as polite as our education ought to make us. Well, gentlemen, when a community is down, when it is being carefully and scientifically dissected, when its scalp is being taken and its rights are being trampled upon as they are here, people are not apt to be so polite as they are when they are doing for the other fellow. Therefore, I think if anything of that kind happened, which I have not seen, I must say I have not seen any, you must not lay it up against us that the thing that you are forcing upon us is not to our liking, and that we get just a little bit out of patience with what seems to us a perfectly good attempt to put through something which is to be for your interest and against ours, and you must not wonder that we resent it.

My friend has drawn for you a picture of when Chicago gets a majority of the votes, how she is going to elect a Governor, and a Lieutenant-Governor and the Senators of the United States and State Auditor and Secretary of State and Attorney General, and so on down the line of State officers.

Gentlemen, must I take a single instant to convince this body of men, who have had experience in politics, that a thing of that kind never could happen, never in the world.

Mr. FIFER (McLean). Just right there, will you yield to a question?

Mr. CUTTING (Cook). Oh, yes.

Mr. FIFER (McLean). This State was admitted in 1818, and every Governor was elected from down State until Altgeld was elected in 1892. Now, since that time Chicago has held the Governor's office for twenty years. Doesn't that show that when you have the power, you will practically arrogate it to your people?

Mr. CUTTING (Cook). No, it does not, for this reason——

Mr. FIFER (McLean). From 1818 to 1892 they were down State Governors.

Mr. CUTTING (Cook). You have a down State Governor now.

Mr. FIFER (McLean). We have one, but you have held it down since Altgeld's time, twenty years.

Mr. CUTTING (Cook). And we elected him.

A DELEGATE. What about Tanner and Yates and Lowden?

Mr. CUTTING (Cook). You don't call Lowden a Chicago man? Frank did practice law when I began there, but he lived on his farm, he claims to be a farmer, and he had his home in Ogle county. Yates and Tanner are exceptions. And now if, once in a while, 40 per cent of the people in Illinois should not have the Governor, I don't know—I can't understand why there is anything wrong in the fact that we have elected I think, three men. We have had Altgeld, we have had Deneen, and we have had Dunne—and we are done! Now, that is all there is to that. It is not the arrogation of power; that was not the reason the political parties did this thing, and you know when you come to reapportion this State and when you come to make up your political convention, you will do it according to senatorial districts, which will give you, even under the scheme which we are willing to help you put through, a majority in most instances of the Convention. But you gentlemen know as well as we do that if you need a majority you will try to get a faction from Chicago to go along with you, very naturally, and if Chicago were in the saddle it would try to get a faction of the down State to go with it. That always has been and always will be. I can't understand

where the theory comes from nor based upon what fact it is claimed that the great County of Cook, an empire in itself, with all its diversity of aims and education and wealth and everything else, that goes to make up citizenship, should be held to be a solidarity that is going to start out to ruin or in some way to harm the agricultural interests of Illinois. We know as well as you do that Chicago is the result of this great country, not alone of Illinois, but Wisconsin and Minnesota and Iowa and a large part of Missouri and Indiana and Michigan have all contributed to the great City of Chicago. There is going to be nothing of that kind done, and gentlemen, in your heart of hearts, you know it. You understand perfectly well and it would be suicide, and that the good people of Chicago, and I have your certificate within the last hour that there are three-fourths of us up there that are good, would rise in their might and put down any such possible attempt.

Gentlemen of the Convention, I don't care to discuss this question much further. I have told you why I said there was a political plot in New York, and I think I have proven it. I have told you why Chicago will not be solid on any proposition because it never has and never will, with the sole exception of one particular bill, and that was at the last session of the legislature, but I do want to tell you this thing, that if, when Chicago gets a majority of the people of this State, and you have limited her in both houses of the legislature, so that her hands are tied and her tongue is gagged, partially, not wholly, then if you have a scheme by which you wish to make the constant question in this State, down State and Chicago; if you wish to force upon Chicago the alternative of electing the Governor and the Lieutenant Governor and all the rest of them by reason of its majority; if you wish to make that line of demarcation and insist upon it and get that result, the thing that you are doing today will bring it about quicker than anything that I can think of. It is said that hell hath no fury like a woman scorned, and there is no resentment that is equal in its virulence and in its long life to resentment of a community that feels that it has been scorned; and if it be your desire to govern Chicago as a conquer province, feeling that the majority of Chicago would be brutal, but in the abiding faith that the minority of the people of the State will not be brutal, do it. I cannot conceive of how it is possible to say that a Constitution is made for the protection of a minority against the majority, when the majority has its hands and feet tied and the minority has control. I believe that there is no government perhaps that can be conceived of that is so effective as a benevolent monarchy. If you had an all-wise and all-knowing and all-good monarch whose sole object was the good of his people and the welfare of the State, who was capable of judging accurately every time a question arose, and would always decide it in favor of the welfare of his subjects, that would be practically the ideal of the hereafter. But no such man ever existed or ever lived or ever can, and no man is good enough or great enough or grand enough to fill that order, and no body of men is good enough, and I say that the American principle that the majority should rule is the earnest approach to good human government that human ingenuity has ever evolved. We say sometimes that the voice of the people is the voice of God. It is not always, but it is eventually as a rule; but I do not believe that a voice of two-fifths of the people governing three-fifths of the people is the voice of God or anybody else except people who, taking council from their fears, are willing not to be magnanimous, but to be selfish, to insist upon what they will not give their brethern, and to feel that in some way they have suppressed the growing influence of the cities by depriving them of some of their representation. I have told you that the old theory of a nigger squatting on a safety valve is about the worst protection that mankind has ever had. One thing or another will dislodge him, and majorities are not to be put off in that way. We are threatening no revolution; nothing of the kind is in contemplation, and of course you know it, but there will come people, and as I have said here before many times, when we undertake to enforce the laws in Chicago against some of the people there who need the enforcement of law, vigorously and to the hilt, those people will say, "Oh, the people of the State of Illinois did not make

these laws, it is only a small portion of them that did it, and while we will obey——" they will say —— "the law which all the people have created, we will not obey the law made by a small portion of them."

So I leave it with you, so far as I am concerned, gentlemen, believing, nay, knowing, in all human probability all we have said will have no influence, but hoping all the time that better councils will prevail and that you will not force upon at least an important portion of this State the theory that it is, as I have said before, a conquered province, to be governed by outside influence and dominated by a majority. Gentlemen, I thank you. (Applause.)

Mr. FIFER (McLean). Did not the Constitution of 1870 provide that the Governor of the State should appoint justices of the peace and the park commissioners of Chicago?

Mr. CUTTING (Cook). Yes, sir.

Mr. FIFER (McLean). Wasn't that some sort of an admission or declaration that Chicago, in some particulars at least, should be treated differently than other portions of the State?

Mr. CUTTING (Cook). Yes, sir.

Mr. FIFER (McLean). Well, that is all.

Mr. CUTTING (Cook). You know the reason for that, and so do I, and you know that you got rid of it just as soon as you could.

Mr. FIFER (McLean). No, you got rid of the appointment of the justices of the peace, but the Governor still appoints the park commissioners.

Mr. CUTTING (Cook). That is one set only. The circuit judges appoint another, and so on. The Governor does appoint some of them.

Mr. FIFER (McLean). That is admitting the principle, that it is unsafe to trust you fully politically to elect these officers.

Mr. CUTTING (Cook). Well, I am sure nobody can speak more feelingly about that than you, Governor.

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I move that we take a recess until 2 o'clock.

THE PRESIDENT. The delegate from Will, Mr. Barr, moves that we do now take a recess until 2 o'clock this afternoon.

Mr. BARR (Will). I would like to suggest, Mr. President, that it seems to me from all the information that I can obtain that the debates will be closed and the question will be ready for a vote about 4 o'clock this afternoon.

THE PRESIDENT. The delegate from Will moves that the Convention do now take a recess until 2 o'clock this afternoon.

(Motion prevailed, whereupon the Convention took a recess to February 1st, 1922, at 2:00 o'clock p. m.)

2:00 o'CLOCK P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. The Convention will please come to order. The matter for consideration is the further consideration of sections 6 and 7 of the legislative article.

(Whereupon the Convention continued on the order of special orders of the day.)

THE PRESIDENT. The delegate from Macon, Admiral Moore, is recognized.

Mr. MOORE (Macon). Mr. President and gentlemen of the Convention:

I would not have thought that anything that I had to say on this subject would interest the Convention at all, but for the fact that it seems that my position on this question has attained a little bit of importance in the minds of some of the delegates; and I have particular modesty in following the intellectual giants who spoke this morning.

I am a citizen of Illinois, and I imagine that there are very few of you who can go further back as to Illinois than I can. I am descended from the pioneers, and I love the State. I don't think there is any man here who

can claim a higher loyalty to the State of Illinois than I hold, and I am speaking because I fear that we are on the edge of doing something that is wrong.

I am not afraid of the consequences of any act that I commit, so long as I feel that my acts are right, but I have a tremendous amount of cowardice when I am faced with a proposition that I should do something that I think is wrong.

Now, we had a meeting in Chicago sometime ago, called together by three prominent organizations of the State, not for the purpose of influencing anybody's vote, but to see if we could not get together somehow between Chicago and the down State and get on to some sort of program for the limitation of the representation of Cook County in the General Assembly that might be acceptable, not only to the down State, but to Chicago, in a degree. I think that every man from down State, and a good many men from Chicago, or all the men from down State, are determined that there shall be some limitation, and I am satisfied that there are a good many men from Cook County who are willing that a reasonable limitation should be put upon Cook County in the General Assembly, and we have tried to compromise, but the attitude towards compromise that has been exhibited here is such that while first I told the story that I will tell you as against Cook County, in the last two days I think I will stretch it out and it can be applied to both sides of this controversy.

I will tell you a little anecdote in my experience that will perhaps illustrate the situation. When I had the honor to be Governor of Tutuila, I was also president of the High Court before which land cases were always tried, and whenever any two men got into a quarrel about anything that came up, there was sure to be a case in the Land Court. Somebody would try to jump the other one's claim, and I sent for a couple of chiefs one day and said to them, "Now, you are spending the money of the people uselessly here in litigation and you are creating hard feeling; why don't you compose your differences and go out and compromise these land cases?" A few days thereafter they came in and said, "Well, now, Governor, you don't need to bother about our case any more; we have compromised it." I said, "Well, yes; how did you compromise it?" "Well, we just told the other fellow to get off." Now, that is the sort of compromise I observed here on the 3d of January and yesterday and today.

I had the temerity two years ago to appear before the down State meeting and make a proposal as to the limitation of Cook County, and I am going to read you that proposal and tell you something about it. Well, before I go any further on the matter of compromise, I forgot to mention the fact that this scheme that we are debating now was made up two years ago, and there has never been one single thing that was entertained for one minute as a modification of it, and any man who dared to hold any opinion a little bit different from the majority in this case has been accused of having a virus working in him and having been tampered with; and yet we find certain elements among them that are not altogether free from the possible challenge of having been improperly influenced.

Now, my proposition to the down State meeting in May, 1920, was this: That there should be a representative in the House of Representatives from every county in the State, and then they should divide the State into fifty-one districts, strictly according to population, and Chicago should have as many, or Cook County should have as many of those fifty-one districts as her population entitled her to. The Senate was to be unlimited. That was a combination of county representation and representation by numbers.

The gentlemen here will remember how they kept me up late at night and hounded me for daring to make a proposition of that kind, and leave the Senate open by population to Cook County. I have stood all of that, and I have no venomous feelings with regard to it. I don't mean that you abused me; I am willing to be abused for what I think is right; but just the same, that is the fact you have to face, and you must understand it. You are asking me to do some certain things in the way of voting, and I have got to have my little speech before I surrender.

I believe that the proposition that I have recited, if it had been made at that time to Cook County, would have carried. There are plenty of liberal spirited men from Cook County in this Convention who would have been willing to make a compromise that did not altogether choke the life out of them, and you down State men can all remember possibly—excuse me, not all of you, because the secretary of the caucus put that proposition of mine in his pocket, and on the 3d day of January when I asked him about it he had forgotten it had ever been made, and I don't know whether he has got it now or not; it was submitted in writing.

I am in favor of county representation; I am decidedly in favor of a strict limitation of Chicago in one House, so that the minority of the people of the State of Illinois shall forever be protected against domination by the large county in the northeast corner of the State, but I want to tell you that I have no sure nor any feeling of respect for the determination to hound the big city because it is a big city; and I feel that inasmuch as I am a citizen of the State of Illinois, I am a citizen of Chicago as well as of any other part of the State of Illinois. If I see fit to move to Chicago, I can vote there, and I have pride in Chicago; I have pride in its being the second city in this country, and I have respect for the gentlemen who come down here and represent Cook County, and I have respect for all of you gentlemen, but I cannot vote for this scheme of county representation without expressing myself and telling you that if this thing carries with my vote, it must not mean a double restriction upon the representation of Cook County.

You have the right to protect yourselves against oppression, and nobody is any stronger for that right than I am, but you have not the right to take and throttle the majority of the people of the State of Illinois for all time to come, in the interests of any particular section of the community or any particular industry of the State.

I thought the other day, when Cook County came down here, they provoked me very much with their attitude on adjourning and their attitude in regard to the procedure of the Convention, and I told some of them, one of them is here now, that if that sort of thing was persisted in, you could count on my opposition right straight along. Now, what I want to see, gentlemen, in this Convention, is that we get together, and that we manage somehow or other to compromise our differences, so that we can all go away feeling that we have done justice to each other and that we have received pretty nearly justice from the other fellow.

I thank you for your attention. (Applause.)

MR. BRANDON (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane, Mr. Brandon.

MR. BRANDON (Kane). Mr. President and members of the Convention:

There have not been many times in my life that I have been accused of undue modesty. Usually I have been accused of the opposite. But upon this particular occasion I arise with a sense of modesty that is not common to me, and I do it for the reason that there has come to me a sense of the great responsibility of this particular occasion. I am not so sure that the people of this State will not look back upon this afternoon as the years go on and on and study its many phases and its results, as having been one of the most important afternoons in the history of the State; and if as I speak to you for these few moments, I shall be less forceful and perhaps not so logical as I would like to be, you will understand that it is due to deep concern that I may be doing the right thing.

For over two years now I have been studying this question, endeavoring to learn from those about me as to the right way to vote on this question.

I came into this Convention prejudiced against a limitation of Cook county, or any other county, on the basis of population. I had the old-fashioned notion that I got from a school teacher back in the grades somewhere, arising I think from the Revolutionary War, that taxation without representation was tyranny, and I had some battles with some of my friends on that principle. Now, I lay no claim to being a student of the subject

that is before us; I have not been an advocate for and certainly do not represent any special interest, because that group of good citizens who are allied together in an organization that has been referred to upon occasions past certainly did not go out of their way to send me here.

As I size up the situation, and I can only size it up from the standpoint of common sense—and my whole life has led me more and more to believe that no matter in what special line a question may arise, you will find its solution in a good bath of common sense—this is where we are this afternoon: One hundred and two counties of this State have to decide how representation in the General Assembly shall be distributed among the people. As I get it, there are two extremes and a great many means. One extreme would be that all of the representatives in the General Assembly should be elected at large. I presume it would be within the power of this Convention to offer that to the people of the State, but there is not a man in this room who would be for it. The other extreme would be that there be a House of 102 members, one of which came from each county in the State. I cannot likewise believe that there is a man in this Convention who would be in favor of that extreme.

Now, some place between the two extremes, there is a golden mean upon which fifty-two or more of the men in this Convention must agree.

If I were to argue the merits of the various proposed means, I would be getting into water too deep for me, after you have heard the masterly addresses on the subject by the gentlemen who have preceded me in this debate. I can only approach it from the standpoint of a man who comes from one of the border line counties. I can't tell the man who comes from Cook county anything about how he ought to vote. I can't tell the man who comes from a district of four five counties how to vote, but I do think I have done a little investigating along the line of representing, as I do, a county which will lose more representation in the House of Representatives if this plan passes than any other county in the State.

Some months ago, I went to the people in the Fourteenth Senatorial District and put this question up to them cold turkey, and I don't believe there is a delegate in this Convention who has visited as many groups of people as I have and presented this question to as many diversified groups as I have. Kane county has at this time three members of the House and one senator. In our senatorial district there is another county, of comparative insignificance. The question that I put to my people in Kane county was this: In what way are three members of the House better to Kane county than two members? and in every meeting that I addressed, without a single exception, I invited an answer to the question, Can anyone here tell me why three representatives in the House of Representatives are better for Kane county than are two? and not one single man or woman in all of those meetings ever offered me one single reason why three representatives were better than two, but a number of citizens did say to me that they believed that two were better than three, and that one would be better than two.

Now, that seems foolish. We have been steeped here for weeks in a discussion that had its theory upon the basis, evidently, that the number of representatives representing a community was the thing of importance, and not that they be represented; but the more that I study the question, the more I am forced to believe that a man who is married to one wife is just about as much married as was Brigham Young; that the main thing is that the people be represented, not that they be represented by any great number of representatives.

Our people say in Kane county, "We have two members of the House and a senator from one town in our county; in the first place, they cheapen the job; in the second place, they get in each other's way. People don't know who to go to as their representative," and can any man in this room—I will say, any down State man in this room—tell me why Kane county cannot be just as fairly represented in so far as voting upon questions is concerned, by the gentleman who comes down here from DeKalb county or DuPage county, as it can be by the man who comes from Kane?

Of course, in the matter of offering bills, yes, there should be from each group of people in the State someone to represent them, that if they have a special desire that some particular thing should be made into law, they should have a representative there to offer it in the House or in the Senate and express their wishes in regard to it; but isn't it a fact, now, gentlemen, honestly, that 95 per cent of the duty of a representative in the House is the duty of a jurymen; isn't it a fact that applies to the delegates in this Convention, that 95 per cent of our responsibilities have been the responsibilities of jurymen? I offered one proposal, I think it was, in this Convention, and another proposal by resquest, and the rest of the weeks that I have spent here have been spent as a jurymen would spend them in the jury box, listening to the arguments of the others and endeavoring to reach a just answer; and if my representative from Kane county offers in the House something to be the law for the whole State, is there any good reason why the gentleman from DeKalb county is not just as good a judge of its merits as a jurymen as is the second man or the third man from Kane county?

We have to reach the golden mean between these two extremes. I say to you as a delegate from Kane county, that will lose representation, that not only I and my colleague, but every voter with whom I have talked in my county—and I have talked to a good many of them—says that he would rather that the little county which is next to us and which has not had a representative should have one representative than that we should have three.

One thing more. We used to have conventions, nominating conventions, in the State of Illinois, and the general practice of those conventions was, if there were to be three representatives elected in the senatorial district, and there were two counties, to give the little county one and the big counties two. Now, there are a number of delegates in this Convention who come from counties just like mine, and it is to them that I speak particularly, and I think they are the only ones I could presume to advise at all. If Illinois would revert to the system of senatorial conventions, your little county would get the same third man that you will lose to that little county by the operations of this section 7 that is proposed. You would immediately agree that that was fair, that they should have one and you would have two. So nearly as I can find out, that was the general practice in the State before the primary system, and if you would agree to give it to them then, why not give it to them now? That is only pertinent, of course, to those few delegates here who, like myself, come from districts where their own county will lose and other county will gain, but it seems to me that if we would give it to them, in good politics, through senatorial conventions, we ought to be willing to give it to them, in good politics, through the proposition that is before us at this time.

I don't know how many men in this room are going to vote for this section 7, but one of the gentlemen who is opposed to it came to me two or three hours ago, and he said he did not believe that it could get more than fifty-one votes. Now, if he is right about it, it is certainly true, and every man in this room will agree with me, that if there are present here today fifty-one men who are for this section 7, the majority of the qualified and elected members of this Convention are in favor of this section 7, because there are one or two members of this Convention that you know and I know are prevented from appearance here by serious, if not mortal, illness, who have already raised their voices in this Convention in favor of this section, and if that be true, in good sportsmanship, if we are seeking to find that happy mean upon which the majority of this Convention can meet, it would seem to me that the rules of good sportsmanship would dictate that if fifty, even, or forty-nine, or forty-eight men in this Convention who are present agree that this offering is the golden mean between the two extremes, that we ought to think a good long while before we abandon it without giving any voice to those who, for reasons beyond their own control, are not here.

Another thing, how unanimous is this sentiment? There happened to come under my eye a list of thousands of names—I don't know who got them together, it doesn't make any difference; I have looked through them

myself and they are undoubtedly genuine—thousands of names of men and women in Cook county who ask that Cook county be limited in both houses of the General Assembly. We seem to have believed here, some of us that Cook county is a unit against this limitation. Why, I don't think there is any doubt, men, but what the last twenty-four hours have proven to all of us that the majority of this Convention is in favor of the limitation of Cook county in both houses, because all of the speakers of yesterday, if I mistake not—all of the speakers of yesterday who spoke against section 7 without a single exception said that they were in favor of the limitation of Cook county in both houses—but this was not just exactly the way that they wanted to do it.

Now, if it is admitted, as it appears to be, and I think only three of the speakers who have spoken against section 7 have failed to say that they are for the double limitation—if it is conceded that there is to be a limitation in both houses, why not adopt this section, and then take up the suggestion that the gentleman from Macon (Moore), offers and think a little bit about that sentiment. I have been myself within the last month or two in discussion with various members of the Convention upon the question exactly as the Admiral (Moore) raises it, that we ought to have county representation, because I believe that it is right, but that it is perfectly possible that it might be well to check that body with a Senate that was by population, taking away, of course, from that Senate and giving to a joint session those special prerogatives and powers that are now given in the Constitution to the Senate alone,—and that will come when we come to it.

Just a word further. If it is true that fifty men who are here agree that section 7 is substantially the golden mean between these impossible and unreasonable extremes, let us think seriously before we reject it bodily, and let us, as the Admiral (Moore) suggests, spend some time upon it and perhaps modify it slightly, in order that we may all be able to go out of this Convention with a united front on the basis of a limitation of Cook County which will protect not only Cook County, but the down State as well. (Applause.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I do not care to shut off debate, but I desire at this time to make a motion that the debate be now closed, and I am making this motion with a qualification intended to allow the President to speak upon the question, and as I understand the ruling, the mover of the original motion is privileged to speak after the motion to close debate is passed. Now, if there is, however, any member that desires to speak, I will not press the motion. I am simply offering it at this time with a view that all of the members who desire to be heard upon the proposition have been heard.

THE PRESIDENT. The delegate from Will (Barr), moves that the debate now close; in other words, the previous question.

(Motion prevailed.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President and gentlemen of the Convention: This question has been so thoroughly presented, the reasons for the adoption of section 7 as a part of the Constitution have been so ably presented, and the reasons held in the minds of those who feel that this proposition should not be adopted as a part of the Constitution have been so clearly expounded that undoubtedly it must appear to be almost a waste of time for me to endeavor or to attempt to present any additional reason or reasons or any additional arguments why the delegates to this Convention should vote in the affirmative upon this first proposal, I mean section 7.

I trust that there has been nothing done in connection with the consideration of this matter of the Constitution of the General Assembly, or any other matter that has been or will be before this Constitutional Convention, that has been unreasonable or unfair or harsh. I think that every one of us here has been impelled with the very highest motives to put

into the Constitution the provisions which in his mind were for the best interests of the people of the State of Illinois. It is not surprising that our views differ, and it is not surprising that our views differ materially upon this very important question, and upon other important questions that have been considered and will be considered by this Convention.

I think I am justified in saying that this question of the makeup of the General Assembly of this State is the most important matter that this Convention has or will be called upon to act upon. The General Assembly for which we are providing is to make the laws for the State of Illinois, if this Constitution is adopted and remains in force, as long as the old Constitution, for a period of fifty years or more. The rights and the liberties of the people of this State are going to be largely in the hands of the body for which we are endeavoring to provide today, and so I say, gentlemen, in my mind this is the most important subject upon which this Convention is going to act.

We have not acted hastily. We have had the matter before us for a period of two years. We have discussed various plans, various proposals and various methods of arriving at the Constitution of a General Assembly which would appear to be best fitted to pass the laws that might prevail throughout the entire State during the existence of this Constitution.

Running through this entire Convention, and I believe, although not expressed, not actively suggested by the gentleman from Cook, but yet indicated by their remarks and by their actions, there has prevailed the thought that no matter what plans might be adopted, no matter what provision the Constitution should have as to the makeup of the General Assembly of this State, there should be in that provision or provisions of the Constitution providing for the General Assembly, provision for a reasonable limitation of the representation of the great County of Cook in that General Assembly. We from the country think that there should be a limitation, and you from the great city admit that we are justified, at least, in our determination and in our views, to the extent of requiring some kind of a limitation; and it does seem as though the only question about which we are debating and the only question which is dividing the opinion of this General Assembly is as to the extent that that limitation shall be. It is not a question of principle, because we admit that the principle must be modified, and you rather passively consent to it. It is only a question of degree. One force in the Convention says Cook county should be limited. Yes, but the limitation in one house is a sufficient limitation. We who take the other view says, Yes, there should be a limitation, but we do not believe that a limitation in one house is a sufficient or a real limitation. Now, it does seem as though when we practically agree with the view that there should be a limitation, and the only difference between us is as to the extent of that limitation, we are not so very far apart, after all.

Some gentlemen in the Convention, delegates who have presented with great force and with splendid logic their views upon this proposition, say that there should be a limitation, and as the delegate from Kane (Brandon), has said, so much better than I can say, there should be a limitation in both houses, or practically in effect they so said, because the proposal that they have suggested that would be satisfactory to them, they state upon the floor of this Convention, would result indirectly in a limitation.

You know, those of you who have visited the National Convention understand how the candidates for the Presidency are selected. They usually start in, don't you know, with one candidate or a number of them presented to the Convention, and there is one group with a particular candidate who may be a splendid candidate and wonderfully well qualified, and he is given what they call a try-out, and his name is the one that is played on for some little time, but it develops as the Convention progresses that for some reason or other that particular candidate, not on account of any fault of his or not on account of any reason that seems to be justified, but nevertheless for some reason does not seem to meet with the approval of the majority of the delegates in that Convention, and then his votes seem to sort of dwindle away, and another candidate comes along. His name is the one

that receives the majority or the larger vote for a while, and he is given a try-out, and so it goes, and probably the men who were in favor of the first candidate or the second candidate or the third candidate can see no reason why their particular man should not be the one that receives the nomination, but he does not, and finally the Convention gets together and a majority of them select a candidate, and they all fall in and accept him as their candidate.

In this proposition that we have had before us for the last two years, there have been submitted a number of propositions with merit, and they have been tried out. One based upon electors, and, as has been suggested by one or two of the down State debators, resulting in limitation, has been tried out, but the majority of the delegates in this Convention have not approved of it, and it has not received the support of the large portion of the delegates; and then another proposition has come along and finally there has come back this proposition of county representation, and we find that at least a majority of the men in the Convention feel that this is the most satisfactory proposition that can be written into the Constitution, providing for a legislative body for the lower house.

Now, I suggest to you gentlemen, especially you gentlemen from down State—I suggest it also to the gentlemen from Cook County, but I am just a little afraid that it may not be received with sufficient enthusiasm to result in obtaining your votes for it—I suggest to you gentlemen from down State who believe on the general principle practically the same way as we do, that Cook County should be limited, and that there should be a limitation in both houses, but who do not agree with us that county representation is a proper method of representation and a proper method of limitation, that you do credit to the great majority of the men who look upon this thing as you do, and support this proposition as the best proposition that those who view the situation as you do are willing to approve.

I received a letter the other day from one of the delegates to this Convention. I wrote to him, as I have written to a number of the delegates, asking for his suggestions, if he had such, as to what sort of a proposition would meet with his approval, to constitute section 7. He was not so very definite in his statement as to just what should be in section 7, but he said this: He said, "I think if this Convention of 102 delegates, made up just as it is, were given the task of writing a Constitution for another state just exactly like Illinois, but not Illinois, that we would have not nearly so much difficulty in writing that Constitution," the thought in his mind naturally being that we were influenced to some extent by our own local situations. His view was, I presume, that if the men in this Convention were not here as residents of Cook County, understanding and feeling the peculiar point of view—I don't say "peculiar" in any sense excepting peculiar as applicable to one section of the State—if the men in this Convention were not sitting here influenced by the local influences of their particular county or of their particular locality; and perhaps if we down State were sitting here as delegates not in the slightest degree influenced by the peculiar local situations affecting us individually, as different from those residing in a different section, that perhaps, and no doubt true, we could sit down and write a Constitution that we would consider a good Constitution for a State like Illinois, if it was not for our own State. And when we are voting here this afternoon, I trust that we will endeavor, just as far as we can, to forget for the time being that we are residents of Cook County or that we are residents of Will County or residents of St. Clair County or residents of little Hardin County, but only remember that we are residents of the great State of Illinois, and that our primary interest and that our primary purpose is to present to the people of this State a Constitution that will provide for a legislature that will be the best possible legislature, not for Cook County, not for your county or Hardin or any other county in the State, but the best possible legislature for the great State of Illinois. And I am sure, gentlemen of the Convention, if we are able to keep ourselves in hand during the time that this roll is called and our names are called, to vote so as to vote independently or local conditions, as far as possible,

that we will adopt a provision or provide a provision relative to the legislature that will be a work well done.

Now, gentlemen of the Convention, I am perfectly frank about this matter. I sometimes think I am so frank about it that maybe I am a little bit harsh. I have not for one moment attempted to conceal my views of what should be the constitution of this legislature upon this one question of limitation of Cook County. I am not going to dodge the issue now, because I believe just as thoroughly as that I am standing here that the legislature of this State that is going to make the laws for the State of Illinois for the next fifty years should be a legislature that cannot be controlled and shall not come from any single county of this State, and that neither of the houses of this Legislature should have a majority of its membership made up of the representatives of any one single county; and if there is any man in this Convention outside of the men from Cook who perhaps should not have that view, from associations and from friendships, it is I. I live on the very border of Cook County. Our county touches Cook County. My business associations, my friendly and social associations, are more closely allied with Cook County than with any other county in the State of Illinois, outside of my own county. I presume that I come in contact more with men from Chicago when I am at home than I do with the men from any other county, considering the proportion even of population. But, gentlemen of this Convention, it is a matter of pure judgment as to what is the right thing to do for Illinois, and nothing else.

The Anti-Saloon League, I do not believe, influences many men in this Convention. It has not influenced me. I noticed in one of the newspapers this morning an article to the effect that the county representation proposition was a child of the Anti-Saloon League, and I thought that the gentleman who wrote that article must have been pretty careless in ascribing parentage to this child, and yesterday when I heard on the floor of this Convention the suggestion that the delegate from St. Clair (Trautmann) had introduced a proposal providing for county representation, I was more surprised than ever, and wondered how it could be that he introduced a proposal that was the baby of the Anti-Saloon League. (Laughter.)

You know, gentlemen of the Convention, it is not the fault of this proposition that the Anti-Saloon League is for it. I don't know whether it does any good or any harm. I know that it has afforded a considerable opportunity for criticism because of that fact, and perhaps it has caused certain delegates to support it for that reason, and perhaps it has caused certain delegates to oppose it for that reason, and I surmise the fact that it has been brought into the Convention by the men who are opposed to the proposition is rather indicative of the view of those who brought it in that it would injure the proposition, rather than help it.

Somebody has said—one of the delegates has said, and it has perhaps been repeated several times, that it is the utterest nonsense to suppose that Cook county is ever together on any proposition. Well, as I have read the papers from time to time, I have observed that they are pretty well cut up up there most of the time politically, and, as has been suggested by Judge Cutting (Cook), the different factions usually depend upon their success by being able to connect themselves up with some members down State, and I just sort of surmised—he had a little twinkle in his eye when he said it—that he felt that some of the members of this Convention perhaps at times had been associated with certain factions of the various parties in Cook county. That is not surprising. You know the fact of the matter is, we do look to Chicago as the center of almost everything, you are right about that, and I have felt sometimes as we went along in the discussion of this matter, that the fact that we had come to Chicago and Cook county for the bigger things of this State has made you gentlemen perhaps a little more inclined to feel that your county should not be interfered with along any line. Of course you have the great banking institutions of the State and of the Central West; of course you are the great railroad center, not only of the Central West, but of the nation; of course your lawyers are the men who are employed in not all, but many of the great matters, not in Chicago alone.

but extending away out into the various states. When we have a friend who is very ill, and if we can afford it, we are inclined to send him to Chicago, because we appreciate that there are gathered together the greatest experts in the way of medicine and surgery. You extend not only down into the State, but throughout the various states of the Central West, and in some instances, in some respects, throughout the whole nation. And so you have power. You are able to do things. Your influence is not local. Your influence extends all over the State of Illinois and the states in this section. But is that a reason why the down State should feel less the necessity of preventing your controlling the legislature of the State than would otherwise be the case? We do not fear the gentlemen of Cook county; and let me suggest that my position in this matter is not on account of the people of Chicago, not on account of the fact that you have a great population different from the population in many of the small counties, but you have the same population that we have in our county and that almost all the big industrial counties of the State have, in a lesser degree; but we do feel that you are just like we are, just like we are, that when you have power, when you need it you are likely to use it. We are likely to do that. I am inclined to think if our county controlled the legislature of the State of Illinois, and there was some matter that came up for consideration that was of peculiar advantage to our county, notwithstanding the fact that it might not be of general advantage to the State and it might be a detriment to the balance of the State, there might be some inclination on our part, if we controlled the legislature of this State, to legislate along the lines that would be to our advantage.

Those questions do not come up very often, but they do once in a while. We had an example of it during the last session of the legislature, and I am not criticising the legislation, I am not saying that you were not perfectly right about it, but I am saying this, gentlemen, that when that question came up for consideration that affected a business located within the City of Chicago, every legislator—I think one of the members from Cook county told me that there was one who did not vote that way on the vote, but indicated that he would on second reading, or if necessary—every legislator of Cook county, as I am advised, voted along the lines that were for the advantage of the industry or business that was located in Chicago.

Mr. DEYOUNG (Cook). That is not the fact

Mr. BARR (Will). I said before that my understanding was that one member was to vote upon the proposition when it came up on second reading, or was to vote for it if necessary. I gathered from what Delegate Shanahan (Cook) said, there was some reservation. If I am wrong about it, I will apologize for it and say that I was wrong. I did not limit it to Chicago; I said every representative from Cook county, and I say further, gentlemen, that as to every matter of legislation that seriously affects the City of Chicago, every man from Cook county, not only from Chicago, but from Cook county, will stand together, because the men from Cook county, as a rule, who are in the legislature, their interests are in Chicago.

The down State was not so solid at any time. The legislation did not pass in the House, and I am not saying but what it should not have passed, either; I am just pointing it out as an example. They were right, perhaps, about it, but, gentlemen, there are questions that may come up, and I have them in mind, and no doubt you may have them in mind, when there might be a situation develop that would be very injurious to the balance of the State. I have observed in this Convention, when the question upon the make-up of the legislature of this State is at issue, that there is not any breaking of the lines of the gentlemen from Cook county on this question. There is here and there a man from down State who votes differently from the balance of the down State men, but the men from Cook county are together.

You know, we have talked a good deal about principles of government and principles of representation in general assemblies. Yes, but, gentlemen, let me suggest to you that a principle is usually valuable in so far as it can be adapted to a particular situation. We have, as has been suggested here by one of the delegates from Cook county—we have an unique situation,

with only one or two other states in the whole Union where one great city approaches a majority of the population of the state, and I don't know but what only one city in the whole nation where one great city within one great county makes up a majority of the population of the State.

Now, gentlemen of the Convention, it seems to me there should be a limitation, but that limitation in order to be effective, must be in both houses, on the basis upon which we were talking; the Senate to be composed of fifty-seven members, nineteen from Chicago, as it now appears on second reading. It has been suggested that the question, of course, would come up as to modification. There is just a difference of nineteen, and a matter of ten votes will change the majority in that Senate, and it does not seem to me that that is a very effective limitation. Secondly, gentlemen of the Convention—and I appreciate that you are getting uneasy, and I am going to get through in time to let the President talk—I am for county representation, and I might repeat, with reference to the limitation proposal, that perhaps I am one of the last men in this Convention who ought to be for county representation, in so far as my local situation is concerned, because I happen to live in one of the big counties of the State outside of Cook, and my reasons, gentlemen, for being for county representation perhaps have been acquired owing to the fact that I have lived in the country all my life.

I know something, as you men from down State do, and which I doubt somewhat as to whether or not the men from Cook county know so well, as to what the county lines mean in the down State districts. Why, we do everything by counties down there. Our politics, our courts, our business, practically our entire operation is by the county. It is not an artificial district, it is a natural district. Why, the men who live over in the south-eastern part of our county, thirty-five miles from the county seat, I can call them and they can call most of us who have been there for a long time, by their first names. They know very little about the people in Kankakee, because we are brought together in the county. The county is not only a unit, but the county is an entity in the State of Illinois, and with a representative who lives in an adjoining county, no matter whether the district lines extend over that county and include four or five or not, it is just as much without representation, unless it has a representative from its own county, as it would be without representation, if the representative lived in Cook county.

They say that we are disfranchising a large number of people. Just a word about that. I realize you are getting uneasy. I have thought much about this. If four men happen to be indicted for the same offense, no one would think it was necessary for the men to have four lawyers. Can you say to me that fifty thousand people in Chicago, or in Cook county, living within a radius of a few blocks, are no better represented by having a representative in the General Assembly than are the people who live in Hardin county, with five other counties included within that district to make up the fifty thousand and with a representative living off fifty miles away? Why, the people that are disfranchised are the men who live in the counties which have no representation. Fifty thousand people in a small district—we will put it the other way—surely fifty thousand people living in five different counties, with one representative in one county fifty miles away, are not represented in the same sense that fifty thousand people living within ten blocks of each other are represented.

Gentlemen, as I said in the beginning, I believe in this proposition, because I think Cook county should be limited in both houses; secondly, I believe that the county is the natural basis and district of representation, and I believe that if we draft this Constitution along the lines that are outlined in this section, that we can say that we have drafted a Constitution in just the same way and in just the same manner as we would draft a Constitution if we were drafting it for another state just like Illinois, but which was not Illinois.

We are going to have a roll call in a few minutes. I hope it will be all not before 4 o'clock, and I trust that every delegate in this Convention will vote what he believes to be the right thing to do, and for what he

believes will give to the people of this State a legislative body that will be qualified to give to this State, not any county, not any section or any class, but to the great mass of the people of the State of Illinois everywhere, the kind of laws that we expect a good representative legislature to do.

Gentlemen, I thank you, and I hope that the result of this vote will be such as to give the people of this State an opportunity of voting upon this proposition along those lines. Just in conclusion, let me suggest—I do not want to forget it, I don't want you men to forget it—in voting upon this proposition, that it will carry with it the alternative proposition. It is not in this section, but it will be introduced and presented to this Convention, the alternative proposition that will go out with this Constitution, to be voted on by the people, providing for no limitation whatever in the lower house, and with a provision that if the alternative section receives a larger vote than the section contained in the Constitution, that that shall be substituted for the section we are adopting this afternoon. (Applause.)

(Whereupon the President left the chair and Delegate Rinaker (Macoupin) presided.)

Mr. CHARLES E. WOODWARD (LaSalle). Mr. President.

THE PRESIDENT. The gentleman from LaSalle.

Mr. WOODWARD (LaSalle). Mr. President and Members of the Convention:

Since this Convention convened, I have not very often asked its indulgence for the purpose of addressing it upon matters pending for consideration. I regard the proposition now under consideration as one of the most important, if not the most important, proposition that this Convention will be called upon to consider and to adopt and pass on to the people. That is my reason, Mr. President, for vacating the chair and for asking for your indulgence for a few moments.

At the outset, I deeply regret that I cannot bring my mind into accord with the ideas and with the opinions of the majority of my down State brethren. I respect their views. I respect their opinions. I have given them due consideration and due weight. After such consideration, and after giving them such weight, neither my intellect nor my conscience tells me that the proposal which the majority of them seem to be in favor of is the best thing in the long run for the people of the State of Illinois for an indefinite future.

We are engaged, gentlemen, in a solemn task and in a solemn undertaking. We are making a Constitution for a great, for a free people. We must approach that task with all gravity and with due consideration to principles of government and to our prior history. For, gentlemen, constitutions, in order to be permanent, in order to secure the consent of the people, in order to secure their love and adherence, must be based upon fundamental principles. In the construction of constitutions, you cannot ignore principles. And this proposition today is one which challenges the very fundamentals of democratic and of republican government. Suffrage, representation, the making of the laws, are the things in which throughout all history of democracies, the people have been most interested. No other principle, no other thing, no other policy has appealed so strongly to the people of democracies as have the principles and the policies of how the democracy should be governed, and through what instrumentalities it should function. So, gentlemen, we are here as a Convention of the great people of this State, considering fundamentals and trying to vitalize into a document our ideas of what the people of this State conceive to be the fundamental ground principles of government. And, gentlemen, in my judgment you must get to and adopt those fundamental principles, else the work of this Convention will have been in vain; and if we do not make our work coincide with those fundamental principles, it should be in vain.

In my view—and I am speaking only as a representative from LaSalle county—in my view sections 6 and 7, as now proposed, are opposed to what I conceive to be the fundamentals of government. My opposition to those sections is not placed primarily upon the question of expediency, but is mainly placed upon the theory that they attack the fundamental principles upon which democracies have been founded.

Now, let us see what has been the history, the traditions and the genius of this State—and we cannot depart from the history, the traditions and the genius of our own people, which has extended throughout generations, without ultimately encountering great opposition, and probably failure.

Reference has been made in this debate to representation under the Constitution of 1818. Whether based upon an equality of population under that Constitution or not, it is unquestioned that since the Constitution of 1848 was adopted, the principle of representation in this State has been based upon equality of population. That, at least, has been the principle which has been in force for over seventy years of our State history.

Reference was made yesterday by one of our distinguished delegates to the effect that he drew his political inspiration from the works of Hamilton. Illinois has also drawn its political inspiration largely from the works of Hamilton, but it has also been tinged with the ideas and with the principles of Jefferson and of Jackson. The idea of a democracy of Jackson and of Jefferson appealed to the pioneer of this State. Growing out of that, the idea of local self-government has been imbued into the minds of the people of this State. In State politics, equality; equality of right, equality of representation, equality of burden, has been the principle which has guided and controlled us for over seventy years—nay, more, I think it safely may be affirmed has controlled us for one hundred years.

In 1870, when that Constitutional Convention was held, a reaffirmance was had of the theory of equality of representation. In that document it was provided, and I think almost without debate and discussion, that representation, suffrage, the right to be heard,—that representation should be based upon population, and that legislatures should be elected by districts having as near an equality of population as possible. That was in accord with the history of the State and with the prevailing idea of the times.

That is the condition in which the Constitution of this State leaves us at the present moment, equality of representation in both houses of the General Assembly. But for the last twenty years, possibly longer, at various sessions of the General Assembly resolutions have been introduced having for their purpose the calling of a Convention to revise, alter or amend the Constitution. Almost without exception, and I am speaking from memory now, almost without exception, I think, those resolutions came from men who resided without Cook county; down State men, if you please. The ostensible reason for offering those resolutions was that since 1870 the State of Illinois has grown, her industries have become diversified, but there has grown up in the northeast corner of this State a great city which, if the prevailing rule of apportionment prevails, will in a few years by its numbers dominate and control both houses of the General Assembly.

There has been for twenty years a fear down State of domination of that great city by the lake. That fear may be unfounded. It had its inception probably in no overt act on the part of the City of Chicago, but there was a great mass population, industrial and commercial, which the down State people feared might be dominated and controlled by one idea, and which would not have or appreciate the ideas and the ideals of the down State. It was that fear, groundless, as I say it may have been, which prompted the country legislators to introduce these resolutions in the General Assembly.

But there was another principle written into that Constitution of 1870, and that was the principle of a general property tax; that each person and corporation should pay a tax in proportion to the value of his, her or its property. It was alleged by the commercial and by the industrial interests, whether truly so or not is immaterial, but it was alleged by the industrial and the commercial and the manufacturing interests that that clause of the Constitution operated adversely to the commercial development of the State. There was a vast body in this State, perhaps not great in numbers, but great in influence, who thought that the judicial article of the Constitution should be amended and changed. Other forces thought that certain sections and certain articles of the Constitution should be amended or altered. By a combination of forces, by a combination of circumstances, the resolution to call this Convention then was passed, but back of that, the prevailing

reason—I think it safely may be affirmed—the prevailing reason was the down State desire to limit Cook County in the General Assembly.

The resolution was passed, the election was held, the resolution was adopted, and the General Assembly passed a law for the calling of this Convention. Delegates were elected and assembled, and one of the first things which came to the front were propositions relating to apportionment of representatives in the General Assembly. What are the principal things before us, then? Roughly, they may be analyzed and classified into three distinct classes:

First—Those delegates who believe that Cook county should not be limited in either house of the General Assembly.

Second—Those delegates who believe that Cook county should be limited in both houses of the General Assembly; and

Third—Those who believe that Cook county should be limited in one house of the General Assembly.

I think that that is a fair classification of the ideas that are prevalent and have been prevalent on this floor.

The first idea, namely, that Cook county should not be limited in either house, has, I think, even from our distinguished members from Cook county, very few adherents. It has not been pressed with any seriousness, to our attention.

The next proposition, then, is that Cook county should be limited in both houses of the General Assembly, and that, in effect, is the proposition that we now have under consideration. Even those delegates who believe that Cook county should be limited in both houses, at first, at least, had different ideas of the manner in which that limitation was to be accomplished. As a result of conferences, of votes in this Convention, in fact, we have come to the proposition that the way to limit Cook county is to limit Cook county in both houses by providing for county representation, as set forth in sections 6 and 7, now under consideration.

Section 6 provides, in substance, that there shall be a Senate of 57 members, two-thirds of whom shall be elected from counties down State, and one-third of whom shall be elected from Cook county. There is an arbitrary limitation. Section 6, or rather, the effect of section 6, is to provide that at no time or at least at a very remote time—at no time, I will say—shall Cook county have a majority in the House of Representatives of this State. That, frankly, has been the construction put upon it, as I understand it, by the proponents of this measure.

The effect, then, would be an effective limitation of Cook county in both houses of the General Assembly. In the consideration of that question—and we will all be called upon to answer that soon—in the consideration of that question I asked myself only this one question: Is it right; is it just; is it in accord with the fundamental principles of government? I cannot bring my mind to believe that a proposition having this effect is right. I cannot bring my mind to believe that it is just, and as I have read history, as I have tried to study political philosophy, I cannot bring my mind to believe that it is in accord with the fundamental principles of democratic government.

Reference has been made in this debate to the works of Lord Bryce. It has been my pleasure this winter to read most of the first volume of Lord Bryce's great work on Democracy. In the first or second chapter of that great work, Lord Bryce devotes many pages to a discussion of the great fundamentals of democracy and devotes many pages to a discussion of the principle of equality. "Equality," says Lord Bryce, "is the Apostle's creed to democratic government," and Lord Bryce was right.

As I say, my studies in political science have always led me to the conclusion that the great underlying—the great, fundamental idea of democratic government, of republican government, if you please—the great, underlying idea has been that of equality, and when you depart from the principle of equality, you are departing from that great, fundamental idea for which the English-speaking peoples have been famous.

A few days ago I thought I would look up and see whether or not the courts, aside from political philosophers, had had under consideration this question of apportionment and of equality. I am going to ask your indulgence for just a few moments while I read an excerpt from the statement of Mr. Justice Grant in the case of Giddings vs. Blacker, decided by the Michigan court. It was an apportionment case, in which the question of equality was the vital question before the court. Mr. Justice Grant uses this language:

"It was never contemplated (referring, of course, to the constitution of Michigan)—it was never contemplated that one elector should possess two or three times more influence in the person of a representative or senator than another elector in another district. Each, in so far as it is practicable, is, under the constitution, possessed of equal power and influence."

Then, after making that statement, Mr. Justice Grant uses this expression, which is applicable today to the proposition before us:

"Equality in such matters lies at the basis of our free government"; and in making that statement, Mr. Justice Grant is in accord with the writings of our statesmen and of our political philosophers.

I ask your indulgence further in reading from the case—from what Mr. Justice Barker states in the case of Rayland vs. Anderson, in the Kentucky court. The same proposition was before the court, the fairness and equality of an apportionment act of the state of Kentucky. Mr. Justice Barker says:

"He has studied our constitution in vain who has not discovered that the keystone of that great instrument is equality, equality of men, equality of representation, equality of burden, and equality of benefits. Section 1 of the bill of rights provides," he says—and it is the same in the bill of rights in this State—"Section 1 of the bill of rights provides all men are by nature free and equal; section 3, all men when they form a social compact are equal; section 33 provides for equality of representation; sections 171, 172, 173 and 174 provide for equality of taxation. Uniformity," he says; section 39 provides for equality of laws. Indeed," he says—and we have the same provisions in our Constitution, in substance, if not in words—"Indeed," he says, "it could not be otherwise, for when our forefathers emigrated from their European homes it was in the main to escape from the oppression of inequality. They brought with them a burning love for this great democratic principle, and imbedded it deep in the foundation of the empire they were destined to erect, and which they will observe so long as the love of liberty is more than a name. When they threw off the supervising government of the mother country it was because," he says, "they were denied equality of representation, for, as they well expressed the evil, they had imposed upon them 'taxation without representation.'" Continuing, Justice Barker says:

"Equality is a vital principle of democracy. In proportion as this is denied or withheld, the government becomes monarchic or oligarchical, and we do not want to make an oligarchy or a monarchy in this state." Continuing, "Without equality, republican institutions are impossible. Inequality of representation is a tyranny to which no person, no people worthy of freedom will tamely submit. To say that a man in Spencer county shall have seven times as much influence in the government of the state as a man in Ohio, Butler or Edmundson is to say that six men out of every seven in those counties are not represented in the government at all. They are required to submit to taxation without representation. It was this kind of oppression which inspired that great struggle for freedom which began on Lexington Green in 1775 and ended at Yorktown in 1781. Equality of representation," he says, "is the basis of patriotism. No citizen will or ought to love the State which oppresses him, and that citizen is arbitrarily oppressed who is denied equality of representation with other citizens of the commonwealth."

I might read other decisions on apportionment laws. I might take other excerpts from the statements of eminent courts and eminent judges along the same line, but they are all in accord with what we all learned from the great fundamental documents of English and of American history, namely, the idea of equality of representation, equality of man before the law, equality of burden and equality of benefit; and you cannot escape that; you can't escape that great principle in the construction of your government if

you are going to construct a government of which we ourselves will be proud in the long run.

The effect of this proposal, as I understand its effect, would be permanently, irrespective of the growth of the great city by the lake, to deprive over 50 per cent of the people of this State of their proportionate equal share of representation in the General Assembly. Any proposal which in its workings has such an effect is antagonistic, in my mind, to the very vital principles upon which our government is constructed. Moreover, it is repugnant to my sense of right, to my sense of justice; it is repugnant to the Golden Rule, as I understand the Golden Rule. Therefore, I cannot give this proposal my intellectual or my moral assent.

But there is a practical objection to this proposal, aside from the theoretical objections which I have tried very feebly to point out. The great practical objection to this proposal is, to my mind, that it raises the question of sectionalism in this State. The men from down State who have participated in this debate have very graciously and very fairly stated to our distinguished brethren from Cook county that they harbor no ill will; that they harbor no resentment against the people of the City of Chicago—and they were right. As I see it, there is not now, and never has been, in this State, a great prejudice against the City of Chicago, as the City of Chicago, but this proposal is based upon the very premise that there is now or that at least there will be, an irreconcilable conflict between Cook county and the down State. I deny that premise. I deny that there is any irreconcilable conflict between those interests. As I have read the political and the social history of this State, there never has been a time when the two sections of the State, if I may use the expression, have been in irreconcilable conflict, and the little incident of last winter is no exception to the rule. In the history of this State, Chicago does not vote one way and the down State vote another way. We have more interests in common than we have in conflict. Chicago has never been united. The down State has never been united. Our interests are our common interests. There is no sectional conflict at this time. But, gentlemen, as I view the effect of the adoption of section 7, the county representation section, you are going to make a sectional conflict out of this proposition.

Denied this equality of representation in accordance with its population in both houses of the General Assembly of this State, 51 per cent of the people of this State are going to protect themselves. It is natural, it is human nature that they should do so, and to protect themselves, they will combine and in every election, it is my prediction that if this section becomes the law of this State, you will find a solid Cook county, irrespective of political affiliations, against a disunited down State, and therefore you will have the sectional question in every State election of this State, and any proposition which makes that result, to my mind is a crime against the people of the State of Illinois.

As I study government, the dominating principle of constructing your government should be that you so construct it and base it as to secure a stable balance of interests, all interests having equality of right. That is the principle, government based upon a stable balance of interest, all having an equality of right, which I deduce from my feeble studies in political science and in the practical affairs and practical construction of governments. What is the purpose of government? For what are we gathered together here today? Why did our constituents send us down here? They send us here to construct a government based upon the fundamental principles of government, and the purpose of a written Constitution is to organize your government to secure justice, harmony, safety and stability of the commonwealth. That is what we are trying to do here, so to organize our government as to secure justice, harmony, safety and stability, and we cannot in my judgment secure those great ends of government by denting to more than 50 per cent of our people an equality of representation in the General Assembly of this State.

I have discussed, perhaps at too great length, and stated my views as to the proposition of equality. I believe that that great principle of equality can be adopted by this Convention. I believe that the principle of equality

can be adopted by this Convention in such a way as to limit Cook county and keep our government in harmony with fundamental principles.

How can that be done? History again points out the way. Equality does not necessarily mean that both sections—and I assuming for the moment that there are sections—that both sections should be equally represented in both sides of the General Assembly. Political scientists, political philosophers, in referring to the forms of government, have used the expression to the effect that the Legislative Department should be constructed upon the theory of securing “concurrent majorities.” Lord Bryce in the work to which I have referred and in the Chapter on Equality discusses this idea of concurrent majorities at some length. Lord Bryce points out that the rule of concurrent majorities was first applied in Rome, when the Plebians retreated to the hills, and when there was a separation between the Plebians and the Patricians resulting in the fact that no law could become binding upon both classes unless assented to by the representatives of their respective classes. We have the rule of concurrent majorities immemorially applied in England, of the King, the Lords and the Commons. Before a law of the Parliament of England is binding upon those classes, it must first be assented to by each class. We have a conspicuous example of the law of concurrent majorities in the Senate and House of Representatives of the United States Government; and that principle, gentlemen, can be applied to the proposal which we have now under consideration.

Admit the premise which is back of this, namely, that there is an irreconcilable conflict between the down State and the County of Cook; admit for the sake of the argument that there is an irreconcilable conflict between Cook county and down State, the way of this Convention in constructing the Legislative Department becomes, to my mind, very clear. The Legislative Department should not, therefore, be constructed in accordance with the present theory of our Constitution; should not be so constructed that Cook county may dominate and control both houses of the General Assembly. For a like reason, the Legislative Department should not be so constructed as to secure control of both houses to a minority of the people of this State. But the Legislative Department should be so constructed that the thoughts, the aspirations, the ideals and the policies of the down State may be expressed in one house, and the thoughts and the aspirations and the ideas and the ideals of Cook county may be expressed in the other house of the General Assembly. The concurrence of both houses will therefore afford your concurrent majority, and when you have the concurrent majority, you have the resultant of the moral forces of this State; you have a safe, a stable and an harmonious government, and that, in view of the conditions which we have today, is the only solution which occurs to my mind that will be fair and just and equitable, and best of all, right.

Now, gentlemen, I have taken up more time on this than I had intended—

Mr. FIFER (McLean). I would like to ask the gentleman just one question—

Mr. WOODWARD (LaSalle). Will the Governor excuse me just a moment. I will yield later. There is another intensely practical proposition which now confronts us. The work of this Convention is now in the balance. Which way are you going to have that balance go? We are at the parting of the ways. We must determine, gentlemen from down State, right now, within a few minutes whether or not the down State will secure a limitation of the representation of Cook county in the General Assembly of this State. Almost all, if not without exception, the men from down State came here determined to have a limitation of the representation of Cook county in the General Assembly of this State; determined to prevent the threatened dominance of that great city in matters of legislation. Now, we have up the proposition right now as to whether or not we will secure the end for which we came here, and I tell you frankly it is my frank opinion that if you adopt county representation here today, as we have it in section 7, any Constitution which contains that will be defeated by the people of this State, and we will be thrown back on our present Constitution, and ultimately a

way can be found to compel an apportionment of representation. In view of the fact that this discussion and this propaganda has persisted so throughout the State, ways will be found to apportion representation, and Cook county will forever control the down State.

It is idle, gentlemen, to talk to me about passing county representation before the people of this State. I cannot believe that any organization, however powerful it may be, can put that over in this State. I am told, and I think it is true, that if county representation passes this assembly, the newspapers of the City of Chicago will oppose our work. I have been advised, and I think it is true, that the great, powerful civic organizations of Cook county will oppose our work. I have been advised that the labor organizations in Cook county at least will oppose the work of the Convention. Chicago practically will be unanimous against the work of this Convention if we adopt county representation. Their delegates in this Convention, learned, distinguished, patriotic men, every one of them, I am told, will repudiate the work of this Convention. You cannot tell me that a document sent out here with the united opposition of men of the distinguished learning and balance, men of the high patriotism of these men of Chicago, can have the approval of the people of this State. Moreover, any document, any work which has the united opposition of the delegates in this Convention from Cook county, which has the united opposition of the instruments of publicity of Chicago, of the civic organizations of Chicago, of the newspapers of Chicago, any instrument which has that opposition does not deserve to be adopted by the people of this State. That is my view, gentlemen, of the practical situation in which we are now placed, and the answer to which must be given when this roll is called within a few minutes. Therefore, I appeal to your gentlemen, on solid, substantial, sound principles of government, as I understand those principles; on practical considerations, on considerations, of protecting the interests, the vital interests of down State; that you should defeat the proposition now before this Convention.

I will yield now, Governor. (Applause.)

Mr. FIFER (McLean). Do I understand the gentleman to be in favor of no limitation in either house?

Mr. WOODWARD (LaSalle). I am not, Governor.

Mr. FIFER (McLean). You are not in favor of limiting Cook county in either house?

Mr. WOODWARD (LaSalle). I am in favor, Governor, of limiting Cook county in one house of the General Assembly. That accords, in my mind, with the principle of concurrent majorities.

Mr. FIFER (McLean). You call a representation based on population a sacred principle of government?

Mr. WOODWARD (LaSalle). As I understand that principle.

Mr. FIFER (McLean). Well, then, you are in favor of violating that sacred principle of government, are you?

Mr. WOODWARD (LaSalle). I don't understand the inference, Governor.

Mr. FIFER (McLean). You say you believe that representation based on population is a sacred principle of government, is that true?

Mr. WOODWARD (LaSalle). Yes, certainly.

Mr. FIFER (McLean). Well, then, if you are in favor of a limitation in one house, that is a violation of that sacred principle of government, as you understand it?

Mr. WOODWARD (LaSalle). I regret very much, Governor, that I did not make myself clear in the discussion on that very subject. I very feebly attempted to. I will go over it again.

Mr. FIFER (McLean). Well, let me say further: According to your position, then, your side and our side are both in favor of violating that sacred principle of government, and it is only a difference in degree, isn't that true?

Mr. WOODWARD (LaSalle). That is not true, Governor, and I tried to make it clear, and——

Mr. FIFER (McLean). Just wait a minute, I want to get my views stated. We are in favor of a limitation in both houses; you are in favor of a limitation in one house only.

Mr. WOODWARD (LaSalle). And when you do that—when you limit in one house on the theory of divergent interests, as your theory is, as I understand it, you are in harmony with the rule of concurrent majorities. The ideals and the ideas of both classes, both sections, will have an effective expression.

Mr. FIFER (McLean). Yes, but the one house will not be based on representation based on population?

Mr. WOODWARD (LaSalle). No, sir.

Mr. FIFER (McLean). No; well, don't that violate the principle for which you contend?

Mr. WOODWARD (LaSalle). To my mind it does not, Governor.

Mr. FIFER (McLean). It does not; well, that is an answer. Now, don't you know, as a matter of history, that in the early days of the republic there were no great cities, and this question of the limitation of large cities was not a question before the people?

Mr. WOODWARD (LaSalle). Certainly; that is true, as a matter of history.

Mr. FIFER (McLean). Yes; don't you know that our sister commonwealths, as these large cities grew and became dangerous and liable to control the legislatures of the respective States, commenced limiting these large cities?

Mr. WOODWARD (LaSalle). I think that is true.

Mr. FIFER (McLean). So that they did not begin that until the large cities grew up and appeared on our continent, did they?

Mr. WOODWARD (LaSalle). I think possibly that is true.

Mr. FIFER (McLean). Is there a solitary state on the American continent today where any city is strong enough now, or liable to be, that has not been limited in its representation?

Mr. DEYOUNG (Cook). In both houses?

Mr. FIFER (McLean). Well, some in both houses and some only in one.

Mr. DEYOUNG (Cook). New York is not limited in both houses, as was explained this morning.

Mr. FIFER (McLean). Well, that is my question.

Mr. WOODWARD (LaSalle). That has been discussed so much on the floor, and I am not at all familiar with the details of what other states have done, but I am trying to evolve a true principle of representation. I do not care much, in fact, what other states have done. I want Illinois to adopt a true principle of representation, irrespective of what other states have done or may do. (Applause.)

Mr. FIFER (McLean). Was there any danger at the Convention of 1870 that Chicago would within any reasonable time dominate the legislature of this State?

Mr. WOODWARD (LaSalle). Will you kindly read me the first part of that, Mr. Reporter?

(Question read.)

Mr. WOODWARD (LaSalle). So far as is apparent from a reading of the debates of the Convention, that question, I think, was not raised at that time. I would infer that there was no danger, from the fact that nothing was said about it, and I refuse to concede today that there is any danger.

Mr. FIFER (McLean). Yes, there is where we differ. There is where we get off. Was there any danger when we adopted the Constitution of 1818; non whatever, was there?

Mr. WOODWARD (LaSalle). Certainly not. There is the premise of the argument, Governor, the danger. I have denied the premise. I don't think there is any danger——

Mr. FIFER (McLean). Well, we quibble——

Mr. WOODWARD (LaSalle).——If you will so construct your government that one city cannot dominate both houses.

Mr. FIFER (McLean). We quibble on the word "danger." What I mean by danger is strength, the voting strength to dominate the legislature of the State. That is what I mean by danger.

Mr. WOODWARD (LaSalle). I believe that if our present Constitution is continued, there may be danger if Chicago controls both houses of the General Assembly, and that is what I would have this Convention avoid.

Mr. FIFER (McLean). No, my question was—you did not understand it—was there any danger—I use the word danger in the sense that I have explained—was there any danger of that kind existing when we adopted the Constitution of 1818?

Mr. WOODWARD (LaSalle). Absolutely not.

Mr. FIFER (McLean). Was there any danger when we adopted the Constitution of 1845?

Mr. WOODWARD (LaSalle). I apprehend not.

Mr. FIFER (McLean). Was there any danger when we adopted the Constitution of 1870?

Mr. WOODWARD (LaSalle). I apprehend not.

Mr. FIFER (McLean). Isn't there danger now; danger, in the sense that I have explained, at this time, that if something is not done, Chicago will have the strength to dominate both branches of the legislature?

Mr. WOODWARD (LaSalle). You and I agree absolutely on that.

Mr. FIFER (McLean). Yes, and you believe—you are not afraid that they would exercise that power to our detriment?

Mr. WOODWARD (LaSalle). If the down State controls one nouse, no. If the down State controls neither house, yes.

Mr. FIFER (McLean). Well, it is all a question of danger. You are willing to trust them with that power. Isn't it generally true that when political power is delegated to any man or any group of men they will finally, sooner or later, exercise that power?

Mr. WOODWARD (LaSalle). That has been the history of government.

Mr. FIFER (McLean). That has been the history of government the world over.

Mr. WOODWARD (LaSalle). I thank you, gentlemen. (Applause.)

Mr. STAHL (Stephenson). Will the gentleman yield to one question, please?

Mr. WOODWARD (LaSalle). Certainly.

Mr. STAHL (Stephenson). You stated, did you not, Mr. President, that you could not give proposals 6 and 7 your intellectual or moral support?

Mr. WOODWARD (LaSalle). I think those are the words I used.

Mr. STAHL (Stephenson). You did give those same proposals your moral and intellectual support on December 2nd, 1920, when the same were adopted on first reading, did you not?

Mr. WOODWARD (LaSalle). I did not. Pardon the expression.

Mr. STAHL (Stephenson). I just looked over the records. They may be wrong, but the point I wanted to make——

Mr. WOODWARD (LaSalle). If you will permit me to make an explanation, the record shows that I voted for them, if that is what you refer to?

Mr. STAHL (Stephenson). Yes, sir.

Mr. WOODWARD (LaSalle). Yes, sir; but it was generally understood on the floor of this Convention that the propositions would be submitted separately, and with the idea of affording some means of a compromise, I voted for them, with the idea that they would be submitted separately, and I think some of my down State friends did the same thing.

Mr. STAHL (Stephenson). The reason for my question was as to what has changed your mind since that time up to the present date.

Mr. WOODWARD (LaSalle). I can't search my mind and say it has been changed on the fundamental principle.

Mr. STAHL (Stephenson). I don't understand that there has been any agreement outside of anything that might be incorporated in the record. I listened to your remarks with a great deal of interest, and I wondered if the same thing that might have changed your mind might possibly have changed the minds of the other delegates. If so, I wanted to know what it was.

Mr. WOODWARD (LaSalle). I will stand by the record on my vote of December 2nd.

Mr. BARR (Will). Just one question. You stated that it was your understanding that the proposition would be submitted separately?

Mr. WOODWARD (LaSalle). That was my understanding.

Mr. BARR (Will). Did you understand they were to be submitted separately, neither one to be contained in the body of the Convention?

Mr. WOODWARD (LaSalle). I understood it was to be worked out, it was worked out by referring one proposition to the Committee on Schedule, if I am correct.

Mr. BARR (Will). The point I had in mind, there has been no change in program, so far as the program is concerned, since the vote was taken?

Mr. WOODWARD (LaSalle). Not at all.

Mr. BARR (Will). You did not mean to suggest there had been any different plan of submission than that presented at that time?

Mr. WOODWARD (LaSalle). No, I meant to leave no inference like that.

Mr. KERRICK (McLean). I would like to ask a question or two.

THE PRESIDENT. Does the gentleman yield?

Mr. WOODWARD (LaSalle). Yes, sir.

Mr. KERRICK (McLean). Is it your understanding that the Constitution of the United States embodies what we call our theory of government?

Mr. WOODWARD (LaSalle). Why, it certainly does.

Mr. KERRICK (McLean). And its basic principles are all found within that instrument?

Mr. WOODWARD (LaSalle). Yes, sir, and the history which precedes it.

Mr. KERRICK (McLean). How would that qualify it, if this is the conclusion of those who formed the Constitution, which took into account the preceding history? They have crystallized it into the form of the language of the Constitution.

Mr. WOODWARD (LaSalle). That is what I mean.

Mr. KERRICK (McLean). So we are not to go outside of the instrument itself to find where the basic principles of our government are, and the so often spoken of theory of our government?

Mr. WOODWARD (LaSalle). Yes, sir.

Mr. KERRICK (McLean). Our Constitution provides, not for a democracy exactly, but for a republican form of government, does it not?

Mr. WOODWARD (LaSalle). Absolutely.

Mr. KERRICK (McLean). It also guarantees to every state a republican form of government?

Mr. WOODWARD (LaSalle). Yes, sir.

Mr. KERRICK (McLean). And a republican form of government embodies what is called our theory of government, and its basic principles?

Mr. WOODWARD (LaSalle). Yes, sir.

Mr. KERRICK (McLean). Now, article 4, section 4, of the Federal Constitution, which you no doubt know, is as follows: "The United States shall guarantee to every state a republican form of government." Now, is it your opinion that the fourteen or fifteen or perhaps seventeen states of this Union which have departed very materially and radically from the sole theory of representation in proportion to population, to the extent of limitation in both branches of the legislatures of their states, in so doing have been acting outside of what is permissible under the Constitution of the United States?

Mr. WOODWARD (LaSalle). Not at all; that is a political question for each state to settle.

Mr. KERRICK (McLean). Very well; then of course, it is no violation of the basic principles of our government or the theory upon which our government rests, for a state to provide for the establishment or the membership of its legislature by any mode it may select, is it?

Mr. WOODWARD (LaSalle). I presume that is correct.

Mr. KERRICK (McLean). So that what these other states have done is harmonious and is in all respects in harmony with the Constitution of the United States?

Mr. WOODWARD (LaSalle). I presume that is correct.

Mr. KERRICK (McLean). It is true also that the powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved to the states; that is true, isn't it? That is the language of the Constitution.

Mr. WOODWARD (LaSalle). That is the language of the Constitution, of course.

Mr. KERRICK (McLean). So that every state in the Union, under our theory of government and in accord with its basic principles, has a perfectly free hand and complete, unqualified right to select its legislature in such manner as it shall please.

Mr. WOODWARD (LaSalle). Nobody questions that.

Mr. KERRICK (McLean). Well, then, your only contention is as to the equity or character of the particular mode here in issue?

Mr. WOODWARD (LaSalle). Certainly.

Mr. KERRICK (McLean). So that all this talk about theory of government and this proposed action being a violation of our theory of government has not part in this debate, has it?

Mr. WOODWARD (LaSalle). I have tried to make myself clear on that, Senator.

Mr. KERRICK (McLean). Well——

Mr. WOODWARD (LaSalle). You can draw your own inferences.

Mr. KERRICK (McLean). And the case you read from the state of Michigan, upon which whoever wrote the opinion enlarged and went to a great extent to express his own opinion, the question up for decision there was merely whether the statutory provision or the mode provided for selecting representatives was in accord with the Constitution, as it then existed in Michigan?

Mr. WOODWARD (LaSalle). I tried to make that clear.

Mr. KERRICK (McLean). And as it then existed, it provided no other means of selecting representatives except by population strictly.

Mr. WOODWARD (LaSalle). I tried to make that clear.

Mr. KERRICK (McLean). Yes. Now, you have never heard of an instance, have you, where the Federal authorities or the Supreme Court, invoked by some state, has raised any question against the power of the State to provide, as we would provide here by this proposition, for——

Mr. HAMILL (Cook). Mr. President, I rise to a point of order.

THE PRESIDENT: The delegate from Cook (Hamill) rises to a point of order.

Mr. HAMILL (Cook). The debate has been closed. The previous question has been moved.

Mr. KERRICK (McLean). I for once wish to claim I have the right to reply to a remark similar to the one just made, that I have submitted to the same thing often from the delegate who has just spoken, who states I am not asking questions, when I am asking questions; I have done nothing else but ask questions.

But it is the same old story. I am through.

Mr. WOODWARD (LaSalle). Is that all, Senator?

Mr. KERRICK (McLean). Yes, sir.

(Whereupon President Woodward resumed the chair.)

Mr. QUINN (Peoria). Mr. President.

THE PRESIDENT. The delegate from Peoria, Mr. Quinn.

Mr. QUINN (Peoria). I desire to offer an amendment to section 7.

Mr. DUNLAP (Champaign). Mr. President, I rise to a point of order.

THE PRESIDENT. Just a moment, please. The chair did not understand the statement of Mr. Quinn.

Mr. QUINN (Peoria). I desire to offer an amendment to section 7.

THE PRESIDENT. The delegate from Peoria (Quinn) offers an amendment to section 7.

Mr. DUNLAP (Champaign). I rise to a point of order.

THE PRESIDENT. State your point of order.

Mr. DUNLAP (Champaign). The point of order is that after the previous question has been ordered, that no amendment or any other action

shall be in order except a roll call. The President will find it on the top of page 54.

THE PRESIDENT. What rule, Mr. Dunlap?

Mr. DUNLAP (Champaign). Rule No. 59. (Reading.) "After the motion for the previous question has prevailed, it shall not be in order to move for a call of the Convention unless it shall appear by yeas and nays that no quorum is present (and if a call of the Convention is ordered it shall continue in effect until the vote on the main question has been taken); or to move to adjourn prior to a decision of the main question; provided, if a motion to postpone or to commit is pending the only effect of the previous question shall be to bring the Convention to a vote upon such motion."

Prior to that, it says:

"The effect of the main question's being ordered shall be to put an end to all debate, and bring the Convention to a direct vote upon all amendments reported or pending in the inverse order in which they have been offered, and then upon the main question."

Mr. QUINN (Peoria). Mr. President.

THE PRESIDENT. Mr. Quinn.

Mr. QUINN (Peoria). Prior to the motion of Mr. Barr (Will), I told him of my intention to offer this amendment. I showed it to him. He told me that under the rules he was to close the debate, but as a courtesy to the chair, the chair was to be allowed to express his views after Mr. Barr had concluded. I submitted it to the chair and went to ask him if under the arrangement then in existence there would be any objection to offering it after the chair had completed his argument. I would have preferred to have offered it before. He wanted me to offer this amendment after the main subject was through. It was my understanding that I would be allowed to do so.

THE PRESIDENT. The chair would confirm the statement made by Mr. Quinn (Peoria), that the chair stated to Mr. Quinn that he would have the opportunity to offer this amendment, and the chair would appreciate it if the rules might be such that the amendment could be offered at this time.

Mr. BARR (Will). I ask unanimous consent that the matter may be considered at this time.

Mr. DUNLAP (Champaign). Mr. President, what about other amendments that might be offered?

THE PRESIDENT. The chair has been advised that there are no other amendments.

Mr. BARR (Will). We can rule on the others when they come up.

Mr. DUNLAP (Champaign). We don't know the nature of this amendment, Mr. Chairman, and it may result in debate on this question, and we know that under the circumstances here a vote should be taken immediately, and not postponed.

Mr. QUINN (Peoria). I would like to have this read for the information of the Convention, and I think that under the circumstances I ought to be allowed to offer it.

THE PRESIDENT. There being no objection, the amendment will be read.

Mr. DUNLAP (Champaign). I object to its consideration after it has been read.

THE PRESIDENT. The Secretary will read the amendment.

THE SECRETARY. (Reading.)

Amend section 7 of article 4, by striking out the last paragraph of such section and inserting the following:

The General Assembly shall provide by appropriate legislation, as to counties entitled only to two members, in the House of Representatives, that both of such members may not be elected from the same political party, or group of petitioners or nominators, and as the counties entitled to only three or four members, in the House of Representatives, that no more than two of such members may be elected from the same political party or group of petitioners or nominators, and that in counties entitled only to five members, in the House of Representatives, no more than three of such members

may be elected from the same political party or group of petitioners or nominators, and in counties entitles to more than five members, in the House of Representatives, such counties shall be divided into that number of legislative districts as may equal in number one-third of all the members, such county may be entitled to have in the House of Representatives, and by appropriate legislation it shall be provided that no more than two members from any such district may be elected from the same political party or group of petitioners or nominators.

If in forming such legislative districts, to provide for three members from each thereof, such county would be entitled to one or two additional members of the General Assembly, by reason of its population, then and in such event a district shall be formed from which less than three members may be elected, no more than one of whom may be elected from the same political party or group of petitioners or nominators.

The legislature shall also provide that no political party or group of petitioners or nominators in any county or district shall be allowed to make any such nominations unless it shall nominate as many candidates as the district for which such nominations are made is entitled to elect to the House of Representatives.

All legislative districts shall be formed of compact and contiguous territory bounded by precinct lines and containing as nearly as practicable an equal number of inhabitants."

Mr. DUNLAP (Champaign). The matter would involve, as I said, a discussion of considerable length if it were to be considered seriously, and I therefore renew my point of order.

Mr. HULL (Cook). Mr. President, I move that the rules be suspended for the purpose of voting on this amendment.

THE PRESIDENT. The delegate from Cook (Hull), moves that the rules be suspended for the purpose of voting on the amendment offered by the gentleman from Peoria.

Mr. SHANAHAN (Cook). Mr. President, I hope that the gentleman will not press that motion. Everything has been proceeding by gentleman's agreement during this discussion yesterday and today. Delegate Hamill (Cook), has represented one side and Delegate Barr (Will), has represented the other. Delegate Hamill (Cook), entered into certain arrangements that were very objectionable to some of the members supporting him, but they all agreed to them because he had made the arrangements and given his word. Delegate Barr (Will), and Delegate Quinn (Peoria), and the President of this Convention had an understanding regarding the introduction of this amendment and the time of its introduction. It was done in an orderly way, and I hope that it won't be necessary to suspend the rules of this Convention in order to carry out the gentleman's agreement that was made, especially one made with the presiding officer of the Convention.

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Just a word of explanation. I had no understanding at all that this amendment was to be presented at this time, and I don't think Delegate Quinn (Peoria), suggested that we had any such understanding. He showed me the amendment, and I understand that it was suggested from the chair that it might be taken up at this time, but I did not have any such understanding with him at all.

Mr. SHANAHAN (Cook). I will ask Delegate Quinn (Peoria), to state to the Convention the understanding he had regarding when this amendment should be offered.

Mr. QUINN (Peoria). Mr. Barr is right. I asked him what the procedure was and when the debate would be closed and the order in which we would proceed; I had an amendment to offer, but I did not want to interfere with the order that they had arranged. He said he would close the debate on his side, and as a courtesy to the chair, the chair would be allowed to follow him and finally close the debate. I then went to the chair and told him that I would like to present the amendment at the conclusion of his remarks.

Mr. BARR (Will). There was no understanding between you and me on that subject. I just want my record clean, that is all.

THE PRESIDENT. By unanimous consent, we will take up the amendment offered by the gentleman from Peoria (Quinn).

Mr. DUNLAP (Champaign). I object to the consideration of the amendment, because it is going to open up a debate here upon this proposition that is going to take up a lot of time, and it would be unfair to some of the people who are here to vote upon this motion. I do not wish to be discourteous to the delegate from Peoria (Quinn) at all. That is not in my mind. I would be glad to consider this matter. I don't think it has any chance in this Convention, this minority representation proposition that he offers. However, if there is to be no debate upon the question and it will go to immediate vote, I would withdraw my objection.

Mr. MORRIS (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Morris.

Mr. MORRIS (Cook). I make a point of order. After the amendment is read, it becomes the property of the House.

Mr. DUNLAP (Champaign). It was only read for information.

Mr. MORRIS (Cook). It may have been read for the Senator's information, but it becomes the property of the House, the amendment when it is read, and no motion to suspend the rules to act upon it is required. We have got it before the House now. No debate is permissible, because the motion for the previous question has prevailed, and therefore the only thing for this body to do is to vote upon the amendment.

Mr. DUNLAP (Champaign). I have no objection to it if it is not debated.

Mr. QUINN (Peoria). I will not agree to any agreement to stifle debate here. If those who might oppose it do not care to debate it, that would be well and good; but this thing of stifling debate strikes me as an unfair proposition to make to me, and if the chair holds that this is out of order, that unanimous consent is necessary, and the gentleman desires to interpose his objection, I would rather have the record in that way than to agree that debate should be stifled. I am not in favor of stifling debate, any more than I am of stifling representation.

THE PRESIDENT. The chair reluctantly will be compelled to sustain the point of order made by the delegate from Champaign (Dunlap), and rule the delegate from Peoria (Quinn), out of order.

Then the question is upon the adoption of sections 6 and 7, the vote to be on section 7. Will the Secretary please read section 7, which has been before the Convention.

THE SECRETARY. (Reading.)

"Section 7. At the same time that the senatorial apportionment is made the State shall be apportioned into representative districts.

"Members of the House of Representatives shall be elected for the term of two (2) years from each county or district.

Each county shall be entitled to one representative in the House of Representatives. Each county having a population in excess of fifty thousand (50,000) shall have one additional representative for each additional fifty thousand (50,000) population, or major fraction thereof.

"Each county entitled to more than one representative shall be divided by the General Assembly into as many representative districts as there are representatives to be elected from such county. Such districts shall be formed of compact and contiguous territory bounded by precinct lines and containing as nearly as practicable an equal number of inhabitants, but in no case less than four-fifths ($\frac{4}{5}$) of the quotient resulting from dividing the population of that county by the number of representatives to which it is entitled."

THE PRESIDENT. And the question is upon the adoption of section 7, as read. Those who are in favor of the adoption of section 7, as read, will answer yea as their names are called, and those who are opposed to the adoption of section 7 will answer no. The Secretary will please call the roll. (Roll call completed.)

Mr. BARR (Will). Mr. President, I desire to have my vote recorded No.

THE PRESIDENT. Mr. Barr (Will) changes his vote from aye to no. Mr. BARR (Will). I would like at this time to give notice to the Convention that upon the convening of the Convention at the next Convention day, tomorrow morning, I will move to reconsider the vote taken as to this section.

THE PRESIDENT. And Mr. Barr (Will) changes his vote from aye to no and gives notice that on the next Convention day he will move for a reconsideration of the vote by which this section has been voted upon. Hadn't we better have an announcement of the vote first?

Mr. BARR (Will). Yes.

THE PRESIDENT. On this question the vote is 50 yeas and 31 nays. Not having received a majority of all the votes cast, the proposition is declared lost; and the delegate from Will (Barr) gives notice, having voted with the prevailing side, that on the next Convention day he will enter a motion to reconsider the vote by which this section has been voted upon.

Mr. CLARKE (Lake). Mr. President.

THE PRESIDENT. The delegate from Lake, Mr. Clarke.

Mr. CLARKE (Lake). At this time I desire to have the opportunity of explaining the absence of Dr. Whitman (Boone) from the Convention. He is absent on account of illness.

THE PRESIDENT. Mr. Clarke (Lake) requests that Dr. Whitman (Boone) be excused on account of illness.

Mr. Kunde (Cook) is ill; Mr. Dietz (Rock Island) is engaged in the trial of a lawsuit, and I think one or two other members wish to be excused.

Mr. ROSENBERG (Cook). Mr. O'Brien asks to be excused on account of an important conference the last couple of days.

THE PRESIDENT. Mr. O'Brien (Cook) asks to be excused on account of a conference.

Mr. HAMILL (Cook). Mr. Revell (Cook) asks to be excused on account of illness.

THE PRESIDENT. Mr. Revell (Cook) asks to be excused on account of illness.

Mr. BARR (Will). Mr. President, I would like to ask the Secretary to announce that there will be a meeting of the delegates outside of Cook county in the room back of the post office immediately following the adjournment.

THE PRESIDENT. Mr. Barr (Will) asks the Secretary to announce that there will be a meeting of the delegates outside of Cook county in Mr. Trautmann's room immediately after adjournment. Is there a motion to adjourn?

Mr. DUNLAP (Champaign). Mr. President, I move that we do now adjourn until 10 o'clock tomorrow morning.

THE PRESIDENT. And the delegate from Champaign (Dunlap) moves that we do now adjourn until 10 o'clock tomorrow morning.

Mr. TRAEGER (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Traeger.

Mr. TRAEGER (Cook). I want to amend that by making it 9 o'clock instead of 10 o'clock tomorrow morning.

THE PRESIDENT. The delegate from Cook (Traeger) moves to amend the motion by making it 9 o'clock tomorrow morning, and the question is upon the adoption of the amendment of the delegate from Cook (Traeger) to adjourn to 9 o'clock tomorrow morning.

(Motion lost.)

THE PRESIDENT. The question recurs on the motion to adjourn until 10:00 o'clock tomorrow morning.

(Motion prevailed, whereupon the Convention adjourned until February 2nd, A. D. 1922, at the hour of 10:00 o'clock a. m.)

THURSDAY, FEBRUARY 2, 1922.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

THE PRESIDENT. The Convention will please come to order. Opening prayer by the Chaplain, Rev. Charles A. Briggs, of the First Methodist Church of Freeport, Illinois.

THE PRESIDENT. The journal of January 31st, 1922, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the journal of January 31st, 1922, stands approved.

(Whereupon the Convention proceeded upon the order of reports of standing committees.)

THE PRESIDENT. The Committee on Rules and Procedure submits a special report. Will the Secretary read the report?

(Report read.)

THE PRESIDENT. You have heard the reading of the report; and the question is upon the adoption of the report.

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I just wanted to inquire as to what different situation the report just reported in makes from the situation that it stands in on the former report. As I recollect it, the former report of the Committee on Rules provided that sections 6 and 7 should be taken up; section 7 first voted upon and the section 6, for a final vote. Now, section 7, as I understand, has been voted upon, and I assume that under that rule, section 6 is now before the Convention.

THE PRESIDENT. That was the end; the chair would state that was the end intended to be accomplished. It was felt that possibly there might be some misapprehension that the rule brought in by the committee a few days ago might not be so construed, and as a matter of precaution this report was made, in order to obviate any technical objections that might possibly be urged. The end which the gentleman suggests is the end intended to be accomplished by this report.

Mr. BARR (Will). I was not quite sure of the reading. Does this rule provide for a final disposition of section 6?

Mr. DUNLAP (Champaign). Will the Secretary read it again?

THE PRESIDENT. Will the Secretary please read it?

(Report re-read.)

Mr. BARR (Will). Well, this does somewhat alter the situation. As I would gather, the rule as previously adopted provided for final disposition, and this rule provides for disposition. I am wondering whether or not the ruling upon the question of the votes necessary to carry would be modified by the change in the wording of the rule?

THE PRESIDENT. As the chair sees it, there is no difference in substance between the two rules. There is a difference in wording. This rule provides, "shall be considered on second reading." The general rules of the Convention provide that on second reading a proposition, to carry, must receive a vote of the majority of all elected to the Convention.

And the question is upon the adoption of this report.

(Report adopted.)

THE PRESIDENT. The question for consideration then is section 6 of the legislative article.

(Whereupon the Convention proceeded upon the order of special orders of the day.)

THE PRESIDENT. Will the Secretary please read section 6?

THE SECRETARY. (Reading.)

"Section 6. The General Assembly shall apportion the State at any session which may be then pending, or, of none, then at its first session following the adoption of this Constitution and in the year 1931 and every ten (10) years thereafter, into fifty-seven (57) senatorial districts, each of which shall elect one Senator whose term of office shall be four (4) years and the basis of senatorial apportionment shall be the number of voters who voted for Governor at the last regular election at which a Governor was elected previous to the apportionment.

The territory now constituting the County of Cook shall be divided by the General Assembly into nineteen (19) senatorial districts, and the number of such voters in that territory shall be divided by the number nineteen (19) and the quotient shall be the ratio of representation in the Senate for that territory.

The territory now constituting the remainder of the State shall be divided by the General Assembly into thirty-eight senatorial districts and the number of such voters in that territory shall be divided by the number thirty-eight (38) and the quotient shall be the ratio of representation in the Senate for that territory.

When a county contains two (2) or more ratios of its territory it shall be divided by the General Assembly into as many senatorial districts as it has such ratios. Districts in counties so divided shall be bounded by precinct or ward lines, or both; all other senatorial districts shall be bounded by county lines.

All senatorial districts shall be formed of compact and contiguous territory and the districts in each territory shall contain as nearly as practicable an equal number of such electors but in no case less than four-fifths ($\frac{4}{5}$) of the ratio for that territory.

Senators shall be so elected that the term of those now in office shall not be disturbed. They shall be divided into two classes so that one-half as nearly as practicable shall be chosen biennially."

THE PRESIDENT. And section 6 is on for consideration and adoption. Mr. Hamill.

Mr. HAMILL (Cook). Mr. President and gentlemen of the Convention: I sat here all day yesterday listening to the debates, which manifested a very sharp division of opinion between some of you, my friends of the down State, and us delegates from Cook county, and I was instructed by much of that debate. I did not participate myself, because I had already expressed from this seat my views upon the question, and you fellow-members of this Convention were fully informed of my attitude and of my reasons for that attitude, and I was unwilling further to trespass upon your patience.

There was much said yesterday by you men from down State with which I sympathize. There is always in the heart of a liberty-loving man sympathy for those men who feel that they are or may be in the minority, and that there is danger of oppression from a majority. We write Constitutions largely for the purpose of protecting minorities, and if I understood correctly the spirit that was back of the agitation of you gentlemen from counties other than Cook, it was that very fear, the fear that you might be in a minority and subject to the oppression of a popular majority; and we all know from history that there is no oppression which can be more burdensome and more sinister than the oppression of a popular majority.

And so I say with entire frankness that much of what you said appealed to my sympathies. I personally think you were wrong in the remedy which you sought for that, and therefore I did not vote for it.

Now we are to consider that section of our proposed Constitution which will organize the Senate. Standing in front of my desk yesterday afternoon, our distinguished President made an address which I think was of great significance. It was a scholarly, thoughtful and forceful presentation of a theory of government which has much to commend it. Assuming, for the

purpose of his argument, that the major premise of your contention was sound, that there is a sectional line between Cook county and the rest of the State; admitting that premise for the purpose of his argument, he said that the correct theory of government where there is such a sectional line is to put into effect a system by which concurrent majorities will be required before legislation can go into effect. The theory that he so suggested, I am frank to say, came to me with some novelty. I had not thought it out with the same care that he had given it. I am disposed to agree with his contention that where there is a sectional line on one side of which there is a population with interests wholly different or materially different from the interests of the people on the other side of the line, that a system requiring concurrent majorities before legislation can go into effect is a sound theory.

Now, for the purpose of this discussion this morning, I do not believe that it is necessary or worth while to discuss whether there is indeed in our case such a sectional line. For the purposes of the few remarks I am now about to make, I will concede that. It is in existence in your minds anyway—whether you are right or wrong I want, if I can, to meet with you—and therefore I personally am ready to discuss this question upon the assumption that that sectional line exists; and if it does, as I have conceded for the purposes of this discussion that it does, then I believe that a system of concurrent majorities is the right system. I therefore am willing to vote for this section. I am willing not only to vote for it; I am ready to urge it upon my colleagues from Cook county, and upon such of you gentlemen from other counties as may think my advice or example has any value. I am ready to vote for it, of course, only upon the theory that in the section providing for the lower house, the representatives shall be chosen either by population or by electors, and that there shall be no distinction between any two parts of the State, no matter where they may be situated.

Now, my friends, I think that this Convention has come to a point where it must decide whether it will go forward or stop. I believe very sincerely that there is a constructive work for us to do for the State, which we are bound to serve; that the present Constitution needs amendment; that the people of our State who have sent us here have a right to expect of us that we will produce a better instrument for today's needs than the one under which we now function, and therefore I want to appeal to you to co-operate with each other and with us from Cook county to try to compose our differences and to go forward with the constructive work for which we came here.

If we can agree upon this much debated and very irritating subject, the decks will be clear for real, constructive work. I cannot pledge any given number of Cook county men to any program, but I feel entirely free to say to you that I believe that a large number of Cook county delegates will vote for this section as it now stands, or substantially as it now stands, if they can have some reasonable assurance that there will be no distinction between different parts of the State in the selection of members of the lower house. We want to go forward with you, our friends. We know that as a result of yesterday's vote there are some sore spots; some of you are grievously disappointed; that you have struggled earnestly and zealously and with all sincerity to do what you thought was right, and that you came very near, indeed, to putting over the proposition for which you had labored so zealously. I have been beaten myself more times than I care to admit, and I know how it hurts, and nothing is further from the minds of us who were opposed to you than to exult in your failure; we can hardly call it our victory, because you had many more votes than we did. We really, I think, sincerely sympathize with you in your disappointment, but we want to go forward with you now, and I want, just as far as I can, to appeal to your patriotism and your desire to accomplish something here, and ask you to join us in the effort now to adopt this section as it stands, or in substantially this form, with the understanding that the lower house will be based upon the electorate.

I thank you for your attention. (Applause.)

THE PRESIDENT. Any further remarks?

Mr. FIFER (McLean). Mr. President.

THE PRESIDENT. The delegate from McLean, Governor Fifer.

Mr. FIFER (McLean). In the discussions that have been had on this vexed question in the past two days, everybody that has spoken on the question has conceded a majority in the Senate of the State to the down State. That has not been a controverted question, and I take it as a matter of course that our friends from Cook county will support this proposition in section 6 as it now stands, but I think it should not be done with any understanding as to what will be done with section 7. For myself, I am ready to make any reasonable concession, and it seems to me the proper thing to do is to adopt section 6 and then appoint a joint committee from Cook county and the down State to settle the questions involved in section 7. Now, that is all that I have to say on that subject.

I would be unwilling to betray our friends in Cook county into voting for section 6 with any understanding regarding section 7, further than to say that I am in favor of a joint committee composed of men from Cook county and down State, to get together and see whether there is any possible way by which that disturbing question can be satisfactorily settled.

Mr. DAVIS (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, General Davis.

Mr. DAVIS (Cook). Mr. President, if I understood the Governor (Fifer) correctly, and his voice did not carry quite far enough, he made the suggestion that any vote on the pending section shall not carry with it any understanding regarding our action on section 7. He also suggested, if I understood him correctly, that, regarding section 7, a conference committee should be appointed to present to the Convention the result of their deliberations. Did I understand the Governor correctly? If I did, Mr. President, it seems to me as though the Governor might go one step further, and in order to save the time of the Convention and in order to give the Convention an opportunity to consider the composition of the legislature as whole, that in making a suggestion for the appointment of a conference committee, that that committee should consider section 6 together with section 7, and in place of voting at this time on section 6 without knowing what section 7 contained, I would like to amend his suggestion and put it in the nature of a motion, that the chair appoint a conference committee for the purpose of considering sections 6 and 7, and that during the session of that conference committee the Convention take a recess.

Mr. CARLSTROM (Mercer). Mr. President.

THE PRESIDENT. The delegate from Mercer, Mr. Carlstrom.

Mr. CARLSTROM (Mercer). May I offer a suggestion to the gentleman from Cook, General Davis?

Mr. DAVIS (Cook). Yes.

Mr. CARLSTROM (Mercer). I was going to make this suggestion, that in that committee that is appointed, if it is appointed, the President be a member.

Mr. DAVIS (Cook). Mr. Hamill (Cook) seems to think that my motion is not in keeping with the plans of the Rules Committee. Far be it from me to interfere with any plans that the Rules Committee has, but if I understood the Governor (Fifer) correctly, that is exactly what he suggested, that we proceed with a vote on section 6, and that section 7 be referred to a conference committee. My suggestion is that that is hardly the proper procedure. If I am mistaken, Mr. Hamill, you can correct me before the Convention.

Mr. HULL (Cook). Mr. President, for my own enlightenment and perhaps for the enlightenment of the other members of the Convention, I should be glad to hear what is the plan of the Rules Committee. I understood General Davis (Cook) to say his proposal ran counter to the plan of the Rules Committee. For a better understanding on the part of the members of the Convention, that they may act intelligently, I think that we should be advised as to what is the plan of the Rules Committee.

Mr. HAMILL (Cook). So far as I am advised, the Rules Committee has no plan. General Davis (Cook) misunderstood me. I have expressed no opinion from the Rules Committee.

Mr. HULL (Cook). I wish to express, Mr. President, my feeling that so far as I am concerned, I believe I voice the opinion of many Cook county

delegates when I say that I am unwilling to be committed to any solution of the difficulty that does not involve the entire question of House and Senate, and I believe it would be advisable, if you are appointing a conference committee, to appoint it before any action is taken upon section 6.

THE PRESIDENT. Did I understand the delegate from Cook (Davis) to make that in the form of a motion?

Mr. DAVIS (Cook). I did, sir.

THE PRESIDENT. The motion then is that the chair appoint a committee of conference—how many?

Mr. DAVIS (Cook). Seven.

THE PRESIDENT. ———to consist of seven members——

Mr. PADDOCK (Sangamon)——of which the chair shall be one——

THE PRESIDENT——of which the chair shall be one, to consider the question of sections 6 and 7 of the legislative article. Are there any remarks?

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). Mr. President, it seems to me that this is a desirable thing to do. Personally, I am prepared to follow the logic and the conclusions of the distinguished delegate from the Twenty-ninth District who opened the discussion of this matter (Hamill.)

Many years ago, when I was a political correspondent for a Chicago newspaper, Judge Shurtleff, who was then Speaker of the House, introduced a resolution for a Constitutional Convention, and his avowed purpose in doing that was to secure a limitation upon the representation of Cook county, for the reasons brought out in the discussions on this subject. That seemed to me at the time an extreme thing, and the objections to it were that population should be always the basis of representations. I took it upon myself to make an investigation of the subject with reference to what other states had done and with reference to conditions in Illinois, and I arrived at the conclusion at that time that a fair and just compromise would be one which would give control in one house to the majority that then threatened and still threatens to come from Cook county, and a majority in the other house against the prevailing popular majority in the one section; an even distribution of power in the legislative assembly.

The paper for which I was then writing contained, and its files contain articles over my name giving those facts and drawing that conclusion. It was a compromise. It was a compromise from my original views, but I have never departed from the idea that that compromise was correct, and the President of this Convention yesterday in a classical address confirmed my views. If we are to make progress in this Convention, we must arrive at much nearer a common ground of thought than we had yesterday, as demonstrated by the very close vote, and I for one am prepared to vote for a limitation in the Senate as proposed in section 6, if we can secure full representation for Cook county on a basis, either of population or of voting strength; but I agree that we must take that up as one proposition. I hope the motion will prevail.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I think that the idea of conferring is a good one, but I doubt if the proposed method is a wise one. If there is to be a conference between representatives of opposed views, that conference should be held in a committee, the members of which command the unquestioned confidence of the side which they represent. It happens that the President of this Convention took the floor yesterday and advocated one side of this question, and it occurs to me that those who do not agree with him may prefer to appoint their own conferees, and I personally think it would be wiser if we are going to have a conference that the Cook county men meet and appoint those whom they choose, and that the men from the other counties meet and choose those whom they want to represent them in conference, and then if that committee desires the President of the Convention to sit with them, why, of course, I presume that he would be glad to do so; but I rather hope

that the motion that has been made will be withdrawn, and that the two groups can meet and appoint conferees and see if the proposition can be worked out.

Mr. DAVIS (Cook). Mr. President, I take pleasure in withdrawing the motion, in order to permit the other plan to work out.

THE PRESIDENT. And Mr. Davis (Cook) withdraws the motion which has been stated from the chair.

Mr. DUPUY (Cook). Mr. President.

THE PRESIDENT. Judge Dupuy.

Mr. DUPUY (Cook). Mr. President, I am in accord with the suggestions made by Mr. Hamill (Cook), and I desire to submit a motion that a committee of conference, consisting of six——

Mr. HAMILL (Cook). This Convention can't appoint a committee of conference. Let the caucuses appoint them.

Mr. DUPUY (Cook). Will you hear the rest of my motion?——that a conference committee of six be appointed, three from each side of this question, the members thereof to be selected in the very manner suggested a moment ago by Mr. Hamill (Cook). It seems to me that that will get us quickly at the result we desire to reach.

Mr. GRAY (Adams). Mr. President, I arise to a point of order.

THE PRESIDENT. State your point of order, Mr. Gray.

Mr. GRAY (Adams). My point or order is that this Convention has no power to assume that there is such division that conference committees can be appointed.

THE PRESIDENT. The point of order is well taken.

Mr. DUNLAP (Champaign). Mr. President, there is no doubt but that the delegate's point of order is well taken. At the same time, we are facing a situation that calls for that sort of action. If we are going to have a conference on this question, it should be, as the delegate from Cook, Mr. Hamill, has stated, a committee in whom each side has confidence; and a report of that kind, coming from such a committee, will have weight; but if it were appointed by the Chairman of the Convention from the general membership here, it probably would not, for obvious reasons—not that we have not confidence in the Chairman of the Convention, but his position is well known—be satisfactory, and what those of us who differ from the suggested committee appointment feel is that we ought to have a bona fide representation upon such a committee; and for the purpose of obtaining in the right form a conference of that kind, the appointment of such committees, and for the purpose of permitting Cook county and the down State to hold conferences and appoint such committees, I move that the Convention do now take a recess until 2 o'clock this afternoon.

THE PRESIDENT. The delegate from Champaign (Dunlap) moves that the Convention take a recess until 2 o'clock this afternoon.

Mr. MILLER (Cook). May I suggest that the recess be for a shorter period? It may not be necessary to recess until 2 o'clock.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). I ask unanimous consent to speak one minute to that motion.

In my judgment it will be tremendously unfortunate to take a recess before we from down State have the opportunity to hear some expression from Chicago as to how far they are willing to go, and from the down State as to what indication they can give that we may possibly get together; and it has been my personal hope that we could have such discussion on this question, at which we would get the views of the members expressed, and then certainly a short recess, with a probability of a conference, might work some results, but a recess at this time would leave us exactly where we were last night. I hope the motion does not prevail. (Applause.)

Mr. SHANAHAN (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Shanahan.

Mr. SHANAHAN (Cook). Mr. President, I desire to speak to the motion made by the Senator from Champaign (Dunlap). I think the time has

come in this Convention when both sides who have been contending here for certain conditions ought to meet and present their candid views as to whether there can be a compromise or not. I believe that every member of this Convention will say that I have stood openly and candidly, from the beginning of this Convention, for no limitation of Cook county in either branch of the General Assembly. I take that position because I think it correct. I vote that way conscientiously. I honestly believe that it would be entirely wrong to limit Cook county in either branch of the General Assembly, but I think the time has come when even I myself must change my views, for certain reasons.

Certain men who are members of this Convention from Cook county have stood for a limitation in one branch of the General Assembly, and they started a campaign in the City of Chicago and in the County of Cook to maintain that position, and many civic organizations and the commercial organizations and the newspapers of the City of Chicago have taken up that idea, and feel that this Convention ought to compromise along those lines; and I want to say now that, although it would be quite hard for me to do so, if that is the solution of this question, so that it will make this Convention a success, then I am willing to forego my opinion and vote with the majority. (Applause.)

I am opposed to section 6 in its present form. I am opposed to a large Senate or a large House of Representatives. If you are going to limit Cook county to one-third in the Senate, there is no reason why you should increase the present number of Senators—fifty-one members, seventeen to Cook county and thirty-four to the down State.

I believe that a number of members from Cook county and certainly ten or eleven from out in the State are desirous at this time to go along with the so-called Gale proposition. I believe that if a committee is selected by both sides, that they maybe able to work out a compromise. I think that in the Cook county delegation there is a wide difference of opinion regarding limitation. We have got to take into consideration that the great majority of the Democratic members of this Convention come from the City of Chicago, and they want their rights protected. They may have opinions regarding limitation of Cook county in either branch of the General Assembly. The members have not had an opportunity to get together and talk over the proposition. We were banded together as one man in opposition to section 7, as voted on yesterday. It is an entirely different proposition regarding section 6, and for that reason I think the suggestion made by the gentleman from Champaign (Dunlap), is a good one, that we take a recess for a short time and see if a committee can be appointed by both sides to meet and confer and report back to this Convention.

Mr. MILLER (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Miller.

Mr. MILLER (Cook). Mr. President, I am one of those who has concluded long ago that it is necessary, in order to reach a compromise, that Cook county be limited to one-third in the Senate. I am one of those who has participated in the propaganda that the last speaker has spoken of, in Cook county. It seems to me the time has arrived when this conference should be had. We all understand now that neither of the extreme views can prevail in this Convention. We all understand that if a compromise can be reached, it must be within certain rather narrow limits, and that it must be largely a question as to details. If we vote for a conference committee; or rather for a conference—if we take a recess for a conference, we all understand, of course, that that conference, if it agrees, will report something which we can fairly well forecast and accept as to details, and it therefore seems to me that the time has come for such a conference.

I take it, of course, that no one is going to be bound by any agreement that the conference may agree upon, but we all know within certain limits of what that agreement must be, if there is such agreement, and therefore I am in favor of the motion.

Mr. CUTTING (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Judge Cutting.

Mr. CUTTING (Cook). I don't know that anything I may have to say is necessary, after having said what I did yesterday.

I am convinced that the only thing that by any possibility can save this Convention from failure and defeat is a proper understanding between us all, so far as that may be obtained, by which this sectional line will not be made permanent.

I have long since come to the conclusion that a limitation in the Senate was the proper solution. It is unnecessary to discuss the principles involved. It is a compromise necessarily, no matter what you call it, and I am willing that that should exist, providing there is a house which will express the popular will of the citizens of the State of Illinois; and that will be accomplished by limiting, if you please, the apportionment, as is done in the state of New York, to those who are citizens. One way of determining it is by the vote, if you please. I have no objection to that, but New York provides that there shall be a census taken every five years at the median point between the Federal census, and that the question of citizenship or noncitizenship shall be reported, and the apportionment is upon the basis of citizenship. Now, that is a somewhat embarrassing and expensive method, and I am inclined to think that the other proposition is the better one, and as a resident of Cook county I am prepared to waive such objections as I had to any limitation, and consent to the limitation to one-third in the Senate, provided that the House shall always be representative of the people of Illinois who have a right to be heard, namely, its citizens, and therefore it seems to me highly proper that we should get together, if not now, at some later point, and determine these questions, so that the legislative article as a whole can be determined.

I do not think it would be fair to pass one unless we had the assurances of gentlemen in whom we put perfect faith—and there are many of them on this floor—that the other part of the dual question as to what the legislature shall be composed of, will in accordance with that understanding. I do not care which is voted on first, but unless something of that kind is done, we shall not get very far, in my opinion.

Therefore, whether it be desirable now or later, I am expressing this opinion to indicate, as I understand it is desired that it shall be indicated, to the people down State as to what we are willing to do.

Now, this committee may report something else—I don't know—but for myself I am willing to go that far; as I said yesterday and as I say again today, and as it seems to me that a patriotic regard for the interests of the State would require that we all get together, regardless of our preconceived notions of what the right in this matter may be.

Mr. TRAEGER (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Traeger.

Mr. TRAEGER (Cook). It appears that we have got to the point where some action other than along the lines that we have proceeded has got to be taken.

A month ago we convened and adjourned, and we have spent two days and a half of this week, and we are today where we began. I believe that we have got to a point where we ought to, as delegates to this Convention, all of us get together and do some work. The suggestion is made by Delegate Davis (Cook), Mr. Hamill (Cook), Judge Cutting (Cook), and others that a conference committee be appointed by the respective down State members and the Cook county members and that we proceed to take up this matter, and evolve a solution to the problem, if possible, which we can present to this Convention, and I believe that ought to be done immediately, without any further lengthy discussion.

A recess probably until 1:30 will leave us in a position that if we ever can get together upon any proposition for this State we ought to be able to do it in a very short time. There is not a delegate in this Convention who has not heard this discussed for months and who is not as familiar with it at the present time as he would be if it was discussed for months longer. I, for one, am ready to act, and act at a very few moments notice. I do not believe that any good can come out of further convening at ten o'clock and

debating until twelve and adjourning until two and debating until half past four or five, thus wasting the valuable time of the members of this Convention.

We have got to a point where some work ought to be done; and therefore, I, as a member from Cook county, as well as my colleagues, am willing to give and take in one of the houses, but let the lower house be the popular house, as it functions today.

I hope that immediate action will be taken, Mr. President, so that we may get to work at 1:30 or 2 o'clock and complete this work which has taken up so much of our valuable time, and we, up to date, have accomplished absolutely nothing. We have got to the point where we have become the laughing stock of the citizens of this great State, in the way we are juggling with this important work.

I therefore want to say in conclusion that I am in favor of the motion before the House that a conference committee be appointed.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). Mr. President and Gentlemen of the Convention:

I think eventually there must be a conference between those who hold the two extreme views on this question, but personally I want to take this opportunity to express my own views about the possibility of some good result coming from such a conference and the wisdom of having it before we know something of the position of certain of the delegates to this Convention.

I voted yesterday for the plan before the Convention. I felt that in the light of my past conduct in this Convention I could not do anything else, but I say frankly that I was not satisfied with my vote on that question, and my opinion was not formed from the debates which were made on the floor. Here is a condition in this Convention, gentlemen, of which we are all guilty. There were arguments produced on both sides of that question that were worthy of the candid and earnest consideration of those who did not agree with the views of the speakers which fell on deaf ears; and speaking for those of us down State, we know that the figures which the gentleman from Knox county (Gale) compiled and read to this Convention in his address never soaked in as facts until they were repeated yesterday evening in the conference room; and it has become a habit that if a man be found who does not agree entirely with the policy of some small group who feel that they have the only solution, that therefore he is to be granded as against the scheme, the whole scheme of the legislative limitation of Cook county.

Now, there isn't anybody in this Convention that believes stronger than I do that the County of Cook ought to be limited in the General Assembly, but when it is presented to me that they will be more effectively limited if we base the House on electors than they will be in a plan of county representation, what right have I to still stand out for county representation and refuse to take a better limitation?

We believe that Chicago or Cook county should be effectively limited in the General Assembly, and effectively limited means that by no reasonable situation that may arise in the reasonable future can they obtain a majority. Without repeating any of the things which have been urged as entirely reasonable and proper on the basis of concurrent majorities; without repeating those arguments, I stated yesterday to the conference that for reasons of my own which I was ready to explain at the proper time, I would not again vote for county representation; and when I say that, it is because I will vote for a more effective limitation than county representation.

Now, gentlemen, speaking to the immediate question as to the futility or wisdom of an attempt to agree, will you allow me to trespass upon your time for just a few minutes to drop these suggestions that have moved my conscience very deeply? I have faith in the republican form of government. We all have faith in the republican form of government. Nearly two thousand years ago, the greatest philosopher among mortal men defined faith to be "the assurance of things hoped for, and the conviction of things not seen."

Mr. FIFER (McLean). "The evidence of things not seen."

Mr. GREEN (Champaign). "The evidence of things not seen." The Governor is apparently entirely familiar with that definition.

No man can anticipate and see accurately what condition will confront this State the next year or ten years from now or fifty years from now, but if we have faith in the republican form of government, gentlemen from down State, can we consistently say that we still have faith in the republican form of government but that in order to make it safe we must, if a condition arises where the facts warrant, have government by minority? That is what we say. If we say that Cook county shall be so limited that even if it has a complete majority of electors or population, or whatever basis is finally determined upon, over the down State, that it shall be subject to the rule of the minority.

Now, then, for the very reason that we want to limit Chicago or Cook county; for the very reason that we feel it is for the protection of the down State interests that no one county should ever dominate and control in the legislative halls; for the same reason, isn't it necessary, if we have faith in republican form of government, to say that we do not want a situation where there shall be rule by minority, because we all know of these inroads by which one after another the bulwarks of American liberty have been taken away or have been modified, the election of United States Senators by popular vote; the inexcusable and indefensible primary law system, and I could name a number of others. By one and another we have encroached upon the republican form of government, and now oft-times we find ourselves driven to the extremity of denying some other fundamental principle in order to save ourselves from the habit into which we have been thrown by violating in the first instance sound principles of government.

This proposition from these gentlemen from Cook county of their willingness to stand for a one-third limitation in the Senate and an organization of the House upon the basis of electors, it seems to me should appeal to our conscience and to our spirit of fair play. Personally, I am willing to assure them that I am ready to vote for that proposition. (Applause.)

Mr. MICHAL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Michal.

Mr. MICHAL (Cook). I just want to make a few observations on the matter before the Convention at this time.

I was steadily in hopes that I could adopt the views expressed by my distinguished colleague, Mr. Shanahan (Cook.) There are no strings tied to me in this Convention, inside or outside, and I am as free as the birds in the air to do whatever I please, but I seem to be a sort of a "fussy" fellow when an organization that is nefarious in its purpose seeks to control legislation and seeks to do things in a legislative assembly such as this Convention, and endeavors to control and bridle the minds and efforts of the members that were elected by their people to represent the whole of the people of the whole State, and not any particular section.

I feel every sympathy, I want to be generous in every way that I can possibly be, to the little man from Egypt, as well as to the big man up on the north shore in Lake county. I haven't any feeling one way or another. I believe that all are entitled to equal and fair treatment; but when an organization such as the Anti-Saloon League—and I hope that they are here represented and listen to me, and I want to assume full responsibility, legal, moral and otherwise for what I say—I want to say that I resent their attitude; I want to say that they are an organization that ought to be exposed; an organization that has heretofore had the support of the good, church-going people of the State of Illinois, whom they have deluded into financing this sinister organization, this arch-lobbyist outfit, this prostitute of legislative assemblies; that they have done a wrong; that they have illused those people; that they have stolen money from them, under the guise that they were suppressing an evil which has long since been suppressed by common consent of the people throughout the country.

I did not think that any organization that had the backing of the federated churches would have the effrontery to bring into this Convention

the argument that unless you limited and restricted the representation of Cook county in the General Assembly of this great State, you would have a domination of this State in its political field by the wet interests, or the liquor interests. I believed, and I still entertain that belief, that when Congress adopted, and the states, the majority of them, ratified the Eighteenth Amendment, the liquor question was a dead issue, and that that being a dead issue, the Anti-Saloon League, if they were not insincere, would go out of business, because the desired object of their organization was terminated, was ended, and there was nothing further for them to do.

I object to interference by any organization in the legislative affairs of any assembly. I hold no brief for any man that tries to lobby in any association for the purpose of contaminating the honest views of members of a legislative body. I hold such person, firm or corporation or organization, ecclesiastical or otherwise, if you please, as abominable, as damnable, as cowardly, and as wholly unworthy of standing alongside of honest men in any community.

I want to say that the activity of the Anti-Saloon League, my friends, in this particular field with regard to defeating the rights of the people to full representation, particularly in Cook county, is an effort that has its birth in what is known in the criminal statutes as conspiracy and con game; that they obtain their funds and use these funds for the purpose of keeping themselves in office. Every newspaper editor of this great State has long since condemned that organization, and I think it is about time that that organization and its members, its generals or whatever you might call them, had the good sense and the common decency to step out of the fields of publicity and the limelight, and hide themselves in some deep hole and forget their existence.

I think that if it was not for the injection of this Anti-Saloon League, with its fallacious arguments, with its sinister and vicious propaganda, that they have sought to inject, that county representation or some other limitation on Cook county would have without question had the approval of a great many of the delegates from Cook county.

But I say for myself, and I am not speaking for the other members from our county, that I am opposed to anything that will in any way, manner or form restrict any part of the representation to which Cook county is entitled under the present Constitution. That is my attitude. Conferences and caucuses will not change me, and the Anti-Saloon League will not change me in my opinion, nor will it bring any influence to bear on me from any other source; and I am wholly opposed to any scheme that will limit Cook county in its rightful representation in both houses of the General Assembly on the basis of population. (Applause.)

THE PRESIDENT. The question is upon the adoption of the motion of the delegate from Champaign (Dunlap) that the Convention do now take a recess until 2 o'clock this afternoon.

(Motion prevailed, whereupon the Convention took a recess to February 1st, 1922, at the hour of 2:00 o'clock p. m.)

2:00 o'clock P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. The Convention will please come to order.

(Whereupon the Convention proceeded upon the order of special orders of the day.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I move you that we consider the vote by which section 7 of the legislative article—or of the report, rather, of the Committee on Phraseology and Style on the legislative article, was rejected.

THE PRESIDENT. Mr. Barr (Will), pursuant to his notice of yesterday, moves that the vote by which the report of the Phraseology and Style Committee on section 7 of the legislative article was rejected, be reconsidered this afternoon.

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I move that consideration of that——

THE PRESIDENT. The question is upon the adoption of that motion.

Mr. BARR (Will). I move that consideration of that motion be deferred until next Tuesday, at two o'clock.

THE PRESIDENT. And Mr. Barr moves further that the consideration of the motion just made be deferred until next Tuesday, at two o'clock. Are you ready for the question?

VOICES. Question.

(Motion prevailed.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I move that we do now adjourn until ten o'clock next Tuesday morning.

THE PRESIDENT. Mr. Barr (Will), now moves that we do now adjourn until ten o'clock next Tuesday morning.

Mr. TRAEGER (Cook). Mr. President.

THE PRESIDENT. The gentleman from Cook, Mr. Traeger.

Mr. TRAEGER (Cook). Mr. President, I would like to ask why we adjourn at this time? Are we going to continue to come down here and sit in this hall two or three days, and then adjourn and go back home? Are we going to continue this Convention for an indefinite period?

I believe it is unjust to the delegates to be asked to come down here for a day or two, and accomplish virtually nothing, and then adjourn and go home. I believe that we could do effective work if we applied ourselves from Tuesday morning until Friday noon, and then let the delegates go home, if they want to.

I do not expect that there is any use of making any motion at this time to continue, but I just want to register my protest against the action of this Convention and the way we have been playing with the work of this Convention.

THE PRESIDENT. The question is upon the motion to adjourn until next Tuesday morning.

(Motion prevailed.)

THE PRESIDENT. The Convention stands adjourned until next Tuesday morning at 10 o'clock.

Mr. CARLSTROM (Mercer). I ask for a division on that question.

A DELEGATE. Roll call.

THE PRESIDENT. The result of the motion has been announced by the chair, and the Convention stands adjourned.

Mr. CARLSTROM (Mercer). Mr. President, I think I made that request before the result of the motion was announced.

THE PRESIDENT. The chair regrets very much that he did not hear it.

Whereupon the Convention adjourned until Tuesday, February 7th, A. D. 1922, at the hour of 10:00 o'clock a. m.

TUESDAY, FEBRUARY 7, 1922.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

THE PRESIDENT. The Convention will please come to order. Opening prayer by the Chaplain, Rev. Jerry Wallace, rector, Christ's Episcopal Church, Springfield, Illinois.

THE PRESIDENT. The journal of Wednesday, February 1st, 1922, was placed on the desks of the delegates on Thursday, February 2nd, 1922, and is now subject to correction. There being no corrections proposed, the journal of Wednesday, February 1st, will stand approved.

Mr. CUTTING (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Cutting.

Mr. CUTTING (Cook). Mr. President, I rise to a matter of personal explanation and of privilege. (Reading.)

"On February 3rd, there appeared in the daily newspapers a statement purporting to have been prepared by Mr. F. Scott McBride, superintendent of the Anti-Saloon League of Illinois, and reading in part as follows:

"The Anti-Saloon League is just beginning to fight in the Constitutional Convention.

"The wets and other doubtful interests now have forced us to go into the open in this fight in behalf of good government. A big majority of the members of the Constitutional Convention—many of them from Cook county—have been elected with the aid and support of the Anti-Saloon League, but these special interests have whipped all of the Cook county men into line in opposition to the county representation plan.

"If the limitation in both houses is defeated, it will mean that the wets and other doubtful interests of the State of Illinois have written for the people the draft of the new Constitution.

"Better a thousand times have no new Constitution than one that will put the State of Illinois on its knees before the corrupt interests. The methods used by these same forces to defeat county representation are an example of what would happen to the State if a majority were given in either house."

"With sincere regret that Mr. McBride should assume to issue so intemperate and unwarranted a statement on behalf of a league with whose true purpose and proper function we are in hearty sympathy, the undersigned members of the Constitutional Convention from Cook county, elected with the approval of the Anti-Saloon League (although, of course, unpledged as to any specific action) are constrained, in justice to our colleagues in the Convention and to the State itself, to ask as a matter of personal privilege, that this statement and protest be spread upon the records of this Convention.

"As representing our constituencies (both local and State-wide) we have insisted—differing from many in our own county, who have thought that if possible there should be no limitation upon our representation—that the House of Representatives should be a popular house, and have been unwilling to sacrifice the principle of the rule of the majority to any special interest whatever. This matter has to do entirely with the organization of the General Assembly, which controls all matters of legislation and not alone those relating to the liquor traffic.

"What does Mr. McBride mean by the phrase, 'just beginning to fight in the Constitutional Convention,' and by 'going into the open in this fight?'"

"Does he mean that he is going to use the funds contributed to the Anti-Saloon League for the purpose of securing enforcement of the prohibition laws, in a campaign to defeat the new Constitution at the polls, if it does not contain county representation and does not limit Cook county in both branches of the General Assembly?"

"Does he mean that he is going to use these funds, thus contributed, in an effort to defeat for office men, known to be "drys" and staunch champions of moral legislation, who may happen to be candidates for public office, merely because they have disagreed with his personal views on this question of limiting representation?"

"When he says: 'Better a thousand times have no new Constitution,' etc., does he signify, not only that anti-saloon funds will be diverted from the vital and desirable purpose of law enforcement for which they were given, but also that he will favor and urge a continued violation of the present Constitution (which will remain in force if the new document is defeated) in the matter of legislative apportionment? We protest that our demands for enforcement of the Federal Constitution would be weakened, should our national allies thus demand simultaneously a violation of the State Constitution.

"Does Mr. McBride seriously suggest that we, or any other members of this Convention, who had Anti-Saloon League endorsement, have been subject to "wet" influences in this matter?"

"What are the 'other doubtful interests' to which he refers in the same connection?"

"Do they include the Chicago Bar Association, the City Club, the Citizens' Association, the Chicago Woman's Club, the Woman's City Club, the Chicago Rotary Club, the Chicago Association of Commerce, and the many other civic organizations which have disagreed with Mr. McBride? Do they include the Rev. Herbert L. Willett, formerly president of the Chicago Church Federation, now vice-chairman of the Citizens' Committee for Proportional Representation; numerous other ministers of the gospel, and the Presbytery of Chicago—all of these having publicly taken an issue with Mr. McBride's theories of representation?"

"Mr. McBride's grievance seems to be particularly directed to the Cook county delegates who received the aid and support of the Anti-Saloon League, and yet a large number of the delegates representing down State constituencies were opposed to the plan which he favors and were without the embarrassment which any delegate from Cook county would have in voting away political rights heretofore always legally in the possession of his own constituents.

"The plain implication of this statement is that the 'Big majority of the members of the Convention' who received the support of the league or its members at the election, owe a debt which can be satisfied only by a surrender of their judgments with respect to the most important measure before the Convention, to-wit: The one involving the fundamental question of political equality.

"We respectfully submit that the 'big majority of the members of the Convention' whether from Cook county or from down State and whether supported by Mr. McBride or not, are under no obligation to surrender their judgments in advance to any person or organization, and that the assumption that they are under such an obligation is an assertion of the right to boss the Convention, and ought to be recognized as such. And if "bossism" is a vice of our political life, it has no exception which would permit the Anti-Saloon League to practice it, especially in a field so far removed from its proper sphere as this is recognized to be, both by lay and clerical supporters of the Anti-Saloon League's cause.

"We therefore most earnestly protest, in justice to our colleagues in the Convention and their disinterested efforts for the public good, against this threat of domination by an outside influence.

"We specifically deny each and all of Mr. McBride's implied charges and insinuations, knowing them to be untrue as to ourselves and believing them to be just as untrue of every other member of this Convention.

"Respectfully submitted,

(Signed)

"WM. H. BECKMAN,

"RUFUS C. DAWES,

"CHARLES S. CUTTING,

"MORTON D. HULL,

"GEORGE A. DUPUY,

"DOUGLAS SUTHERLAND."

Mr. President, I move as a matter of personal right that this paper be transmitted to the Secretary and spread upon the records of this Convention.

THE PRESIDENT. The delegate from Cook, Mr. Cutting, presents a protest signed by a number of delegates to this convention and moves that it be spread upon the records of this Convention. Are there any remarks?

(Motion adopted.)

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). Mr. President, I understand we are about to recess, and I would like to ask all the Cook county delegates to meet in Room 309 immediately upon our taking a recess.

I move you, Mr. President, that we do now recess until 2 o'clock.

THE PRESIDENT. And the delegate from Cook, Mr. Hamill, moves that we do now take a recess until 2 o'clock. The question is upon that motion.

(Motion carried, whereupon the Constitutional Convention took a recess until February 7th, 1922, at 2:00 o'clock p. m.)

2 O'CLOCK P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. The Convention will please come to order.

(Whereupon the Convention proceeded on the order of special orders of the day.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President and Members of the Convention: In explanation of the motions I am about to make, I wish to say that a Conference Committee from down State and a Conference Committee from the Cook county delegates, or rather the two committees that have been named with the idea of endeavoring to work out some plan that might be submitted to the Convention sometime during the day, have not completed their work, and it would seem, on account of some delegates expected on the train that will arrive here about 3 o'clock, that it probably will be impossible for the committees to have completed their work until around 4 o'clock; and I am therefore going to move that the Convention recess until 4 o'clock this afternoon.

Before I make that motion—yesterday I moved that the consideration of the motion to re-reconsider the vote upon section 7, which was taken last Wednesday, be postponed until 2 o'clock today. I now move that the consideration of that motion be postponed until 5 o'clock today.

THE PRESIDENT. The delegate from Will, Mr. Barr, moves that the further consideration of the motion heretofore made by him to reconsider the vote by which section 7 was rejected be postponed until 5 o'clock this afternoon.

(Motion carried.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). I now move that the Convention recess until 4 o'clock this afternoon.

THE PRESIDENT. And the delegate from Will, Mr. Barr, moves that the Convention do now recess until 4 o'clock this afternoon.

(Motion carried; whereupon the Constitutional Convention took a recess until February 7th, 1922, at 4:00 o'clock p. m.)

4:00 O'CLOCK P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. The Convention will please come to order.

(Whereupon the Convention proceeded upon the order of special orders of the day.)

THE PRESIDENT. The matter before the Convention, as fixed in the report of the Committee on Rules, as adopted by the Convention, is the consideration of section 6 of the report of the legislative department on the legislature. That is made a matter of special consideration at this time. The Secretary will please read section 6, as reported by the Committee on Phraseology and Style.

THE SECRETARY. (Reading.)

"Section 6. The General Assembly shall apportion the State at any session which may be then pending, or, if none, then at its first session following the adoption of this Constitution and in the year 1931 and every ten (10) years thereafter, into fifty-seven (57) senatorial districts, each of which shall elect one senator whose term of office shall be four (4) years and the basis of senatorial apportionment shall be the number of voters who voted for Governor at the last regular election at which a Governor was elected previous to the apportionment.

"The territory now constituting the county of Cook shall be divided by the General Assembly into nineteen (19) senatorial districts and the number of such voters in that territory shall be divided by the number nineteen (19) and the quotient shall be the ratio of representation in the Senate for that territory.

"The territory now constituting the remainder of the State shall be divided by the General Assembly into thirty-eight (38) senatorial districts and the number of such voters in that territory shall be divided by the number thirty-eight (38) and the quotient shall be the ratio of representation in the Senate for that territory.

"When a county contains two (2) or more ratios of its territory it shall be divided by the General Assembly into as many senatorial districts as it has such ratios. Districts in counties so divided shall be bounded by precinct or ward lines, or both; all other senatorial districts shall be bounded by county lines.

"All senatorial districts shall be formed of compact and contiguous territory and the districts in each territory shall contain as nearly as practicable an equal number of such electors but in no case less than four-fifths ($\frac{4}{5}$) of the ration for that territory.

"Senators shall be so elected that the term of those now in office shall not be disturbed. They shall be divided into two classes so that one-half as nearly as practicable shall be chosen biennially."

THE PRESIDENT. You have heard the reading of section 6, and the question is upon the adoption of section 6, as read. Are there any remarks?

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President, I offer a substitute for section 6, as read.

THE PRESIDENT. And the delegate from Will, Mr. Barr, offers a substitute for section 6, as read. Will the Secretary please read the substitute?

Mr. BARR (Will). I would like to suggest, Mr. President, that the only changes in the substitute from the original section as read are to change the year 1931 in line six of the first paragraph to 1933, as that will follow the gubernatorial election; and changing the period of time in that same paragraph from 10 years to 12 years, as, of course, the gubernatorial elections or general elections are held every four years, and making the time of reapportioning every twelve years will follow each time a general election, instead of 10 years, as would be the case if it were to follow the census; and in the last paragraph of section 6, changing the pronoun "they" to the word "senators," as there has seemed to be some difference of opinion as to what the antecedent of the pronoun "they" is, and the word "senators" is inserted to clear that situation. Otherwise, it is exactly the same as the original section.

THE PRESIDENT. You have heard the explanation——

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). May I ask the gentleman a question?

Mr. BARR (Will). Certainly.

Mr. HAMILL (Cook). While you are making changes of that sort, would it not be wise to change the word "electors" in the next to the last paragraph to the word "voters," as the word "voters" is used throughout the section, where it apparently means the same as "electors?"

Mr. BARR (Will). Well, it should be "voters" then.

Mr. HAMILL (Cook). "An equal number of such voters" instead of "electors." It seems that you would have that consistent if you did that.

Mr. BARR (Will). That is what it is meant to be.

THE SECRETARY. I have now changed it.

THE PRESIDENT. You have heard the explanation of the substitute; and the question is upon the adoption of the substitute offered by the delegate from Will. Are you ready for the question?

Mr. HAMILL (Cook). Question.

THE PRESIDENT (Cook). There being no further remarks, the Secretary will please call the roll.

(Roll call.)

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President, I want to ask to have certain members excused from roll call.

THE PRESIDENT. I suggest that that be done after the announcement of the result. On this question the yeas are 80 and the nays are 1. The question having received the vote of the majority of the delegates elected is declared carried, and is referred to the Committee on Phraseology and Style.

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President, I desire to ask that Judge Wall (Pulaski) and Colonel Tanner (Clay) and Dr. Whitman (Boone) be excused on account of illness. There may be some others who have asked me to do this for them whom I have forgotten.

THE PRESIDENT. Without objection, Delegates Wall, Tanner and Whitman will be excused on account of illness, and the chair would add that he has been in communication with Judge Mack (Hancock), who advises the chair that on account of illness in his family he cannot be here this week. The chair would therefore ask consent that Judge Mack also be excused.

Mr. SHANAHAN (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Shanahan.

Mr. SHANAHAN (Cook). I would ask that Delegate Scanlan (La-Salle) be allowed to vote when he has returned to the room. He was called out a few moments ago.

THE PRESIDENT. Without objection, the vote of Delegate Scanlan will be recorded.

Mr. FROLE (Cook). I ask that Delegate Iarussi (Cook) be excused because of illness.

THE PRESIDENT. Without objection, Delegate Iarussi will be excused.

Mr. HULL (Cook). That is, Mr. President, Mr. Scanlan's (LaSalle) vote will be recorded when he comes in?

Mr. SHANAHAN (Cook). Yes, that is what I meant.

Mr. SMITH (JoDavies). I desire to ask that Delegate Stahl (Stephen-son) be excused on account of sickness in his family.

THE PRESIDENT. Without objection, Delegate Stahl will be excused on account of sickness in his family.

Mr. GEE (Lawrence). Mr. President.

THE PRESIDENT. The delegate from Lawrence, Mr. Gee.

Mr. GEE (Lawrence). I would like to have the record show that Judge Pearce (White) is absent on account of illness.

THE PRESIDENT. And the delegate from Lawrence, Mr. Gee, asks that the record show that Judge Pearce (White) is absent on account of illness. Without objection, Judge Pearce will be excused.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I would ask to have Delegate Amos Miller excused. He telephoned me last evening that he was ill.

THE PRESIDENT. And Mr. Miller is also ill. The excuses will be entered in the journal.

Now, section 6 having been disposed of, the special order is the consideration of the motion of Mr. Barr (Will) for reconsideration of section 7. Mr. Barr is recognized.

Mr. BARR (Will). Mr. President, 4 o'clock having arrived, I desire to call up the motion to reconsider the vote by which section 7, as voted upon last Wednesday, was voted down.

THE PRESIDENT. And the delegate from Will (Barr) pursuant to the order heretofore entered, calls up for consideration the motion which he has made to reconsider the vote whereby section 7 was lost. And the question now is upon the motion to reconsider section 7. Are you ready for that question?

VOICES. Question.

(Motion carried.)

THE PRESIDENT. Section 7 is now before the Convention.

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). I desire to offer a substitute for section 7 and ask that the Secretary read the same.

THE PRESIDENT. The delegate from Knox (Gale) offers a substitute for section 7. The Secretary will please read the same.

THE SECRETARY. (Reading.)

"Section 7. The General Assembly whenever the State shall be apportioned into senatorial districts, shall apportion the State into 153 representative districts, each of which shall elect one representative whose term of office shall be two years and the basis of representative apportionment shall be the number of voters who voted for Governor at the last regular election, at which a Governor was elected previous to the apportionment. Representative districts shall be formed of contiguous and compact territory bounded by county lines and shall contain as nearly as practicable an equal number of voters, but no district shall contain less than four-fifths ($\frac{4}{5}$) of the representative ratio.

"Counties containing not less than the ratio and three-fourths ($\frac{3}{4}$) shall be divided into separate districts and shall be entitled to two representatives and to one additional representative for each number of such voters equal to the ratio contained by said counties in excess of twice the number of said ratio; and such separate districts shall be formed of compact and contiguous territory, bounded by township, ward or precinct lines and con-

taining as nearly as practicable an equal number of such voters, but in no case less than four-fifths ($\frac{4}{5}$) of the ratio."

Mr. QUINN (Peoria). Mr. President.

THE PRESIDENT. The question is upon the adoption of the substitute offered by the delegate from Knox (Gale.) The delegate from Peoria, Mr. Quinn.

Mr. QUINN (Peoria). I desire to ask the chair for information with reference to the proper parliamentary procedure that I should follow. I want to offer an amendment to this substitute, providing for fifty-one representative districts, of three members each, and providing for minority representation. This is the substitute, as I understand it, offered by Mr. Gale (Knox), and the question I desire information upon is this, I want to offer my amendment as a substitute for the substitute, and I desire to know the proper procedure that should be followed.

THE PRESIDENT. In accordance with the rule, as heretofore made, it would not be proper to offer this as a substitute for the substitute and it should come as an amendment to the substitute, a special amendment to the substitute, as I understand it, or a separate section, probably.

Mr. QUINN (Peoria). Then I desire to offer an amendment to the substitute.

THE SECRETARY. Mr. Quinn (Peoria) offers the following as an amendment to the substitute: (Reading.)

"Amend the substitute by striking out all of the same after the words 'section 7, and inserting the following:

"At the same time that the senatorial apportionment is made the State shall be apportioned into fifty one- representative districts, each to contain, as nearly as practicable, that number of voters as may be equal to the total number of votes divided by fifty-one cast for the office of Governor at the last regular election at which a Governor was elected previous to the time of such apportionment.

"From each of such districts three members shall be elected to the House of Representatives for the term of two years. Such districts shall be formed of compact and contiguous territory bounded by county lines, where the whole of one or more counties form such a district, and by ward or precinct lines where one county shall contain more than one such district.

"The General Assembly shall provide by appropriate legislation that more than two members of the House of Representatives, for any district, may not be elected from the same political party, or group of petitioners or nominators.

"The legislature shall also provide that no political party or group of petitioners or nominators in any district shall be allowed to make any nominations for members in the House of Representatives unless it shall nominate as many candidates as the district, for which such nominations are made, is entitled to elect to the House of Representatives."

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Peoria, Mr. Quinn.

Mr. QUINN (Peoria). Mr. President.

THE PRESIDENT. The delegate from Peoria, Mr. Quinn.

Mr. QUINN (Peoria). Mr. President and Gentlemen of the Convention: I am not going to take much time in arguing this proposition to you. The matter, as submitted here, provides for fifty-one districts, instead of, as you propose by your substitute to make it, one hundred and fifty-three. My plan provides for three representatives from each district; yours provides for one. My plan provides that each district shall nominate three for each party desiring to nominate, and that the legislature, by appropriate legislation, shall provide that not more than two members of any political party or group of nominators may come from each district. The proposition is simple. It is in vogue in other states, and in vogue in many cities with the representation of aldermen. If adopted, I believe it would do away with the great objection that you are obviating, namely, this cumulative voting system. It allows minority representation. It places a check to a large degree upon

majorities. I believe that in the House at least there should be a popular form of electing members; there should be an opportunity to have all classes and groups represented, and that the various divergent views may be presented here.

The great danger to me in our form of government is that in all legislative halls we check and repress and restrict the operations of the minority. As it is now, regarding the open forum in cities, the soap boxes on the corners are the only places for those who happen to be in the minority to have their views placed before the people.

I have no desire to advance the interests of any political party or group; I do not know what the effect of this would be, if adopted, upon the election of members from any political party, and I am not urging it because of advantage to any political party or disadvantage to any other. I believe that this should be a popular house; I believe that all those who represent large groups should have a representative here; I believe that no group should be allowed to nominate only one man, but should be compelled to nominate three. If compelled to nominate three, there will be a choice; there cannot be the "getting together," as we have heard, of the political bosses, and arranging to divide the nominations.

The systems that are in vogue to carry out this idea are quite numerous, and I have no pet scheme to advocate in reference to the manner in which the legislature should treat the subject. The pamphlet gotten out by the University of Illinois in June, 1919, treats of this subject very exhaustively and fully, and I have no doubt you are all familiar with it. If you believe in minority representation; if you believe in the theory of minority representation, my amendment to this substitute will give the legislature an opportunity to put such a system in force in this State. I believe it ought to be done, and I urge this sincerely upon your consideration.

THE PRESIDENT. Are there any further remarks upon the amendment?

Mr. HULL (Cook). May I ask the gentleman a question?

Mr. QUINN (Peoria). Certainly.

Mr. HULL (Cook). I don't think I understood how you would provide for minority representation without cumulative voting.

Mr. QUINN (Peoria). (Reading). "The General Assembly shall provide by appropriate legislation that more than two members of the House of Representatives from any district may not be elected from the same political party or group of nominators."

They have different plans that are suggested in this pamphlet, if your attention has been called to it, on nominating. We will say that of three men who are nominated, Jones gets 10,000 votes on the Republican ticket; his associate, Smith, gets 9,999; and the fellow running on the Socialist ticket gets 9,998. They could, by legislation, give the election of the second man to the Socialist; or, in other words, the dominant party could only elect two. Their highest two would be elected, and the next highest man belonging to some other party would be the third man; three coming from each district.

Mr. HULL (Cook). May I continue the question? If your district was divided into groups so that two-thirds perhaps represented the dominant party and a little less than one-third represented the voters of the second party, your scheme would fairly represent minorities, would it not?

Mr. QUINN (Peoria). Yes, sir.

Mr. HULL (Cook). But if the district was overwhelmingly one way, or nine-tenths of them went one way and one-tenth the other, your scheme would be giving a disproportionate representation to the minority, would it not?

Mr. QUINN (Peoria). You never can, with two or three to be elected, get the thing mathematically correct. If there were more, it would not be so hard to do so. It does not disturb your present system, Senator. If it is a district unanimously, or nearly so, favoring one party, they elect two. In many instances they only nominate two. This makes it impossible for one

party to elect three. There may be a difference in the vote. The minority party may be a very small minority; the majority party may be in an exceedingly large majority, but still they would only elect two in that district.

Mr. SHANAHAN (Cook). Under your plan each party would be compelled to nominate three candidates?

Mr. QUINN (Peoria). Yes, to nominate three candidates.

Mr. SHANAHAN (Cook). There would be no cumulative voting?

Mr. QUINN (Peoria). No cumulative voting.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Peoria (Quinn)? If not, the question is upon the adoption of the amendment offered by the delegate from Peoria. Are you ready for the question?

VOICES. Question.

Mr. QUINN (Peoria). I want to ask for the yeas and nays before you announce the vote.

THE PRESIDENT. Are there five who join in the request?

VOICES. Yes.

THE PRESIDENT. On that question the yeas and nays will be called, and the question is upon the adoption of the amendment offered by the delegate from Peoria (Quinn.) The Secretary will please call the roll.

(Roll call.)

THE PRESIDENT. On this question, the yeas are 21 and the nays are 58, and the amendment is declared lost. And the question is upon the adoption of the substitute offered by the delegate from Knox (Gale.)

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. The delegate from Schuyler, Mr. Jarman.

Mr. JARMAN (Schuyler). I want to offer an amendment.

THE PRESIDENT. The delegate from Schuyler (Jarman) offers an amendment. The Secretary will please read the amendment offered by the delegate from Schuyler (Jarman.)

THE SECRETARY. Reading:

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Schuyler (Jarman.)

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. The delegate from Schuyler, Mr. Jarman.

Mr. JARMAN (Schuyler). I just want to say a word; the amendment is plain in itself.

There are one hundred fifty-three members of the House, as provided by this section. Seventy-six is a fraction less than onehalf of the total number of members, so that it prevents any county from having a majority of the total members of the House of Representatives. That is all the explanation that I want to make.

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Schuyler, Mr. Jarman.

Mr. JARMAN (Schuyler). Mr. President, I ask a roll call on the amendment.

THE PRESIDENT. Do five of the delegates want a roll call?

VOICES. Roll call.

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Schuyler (Jarman. On that question, the Secretary will please call the roll.

(Roll call.)

THE PRESIDENT. On this vote the yeas are 43 and the nays are 37, and the amendment is declared lost.

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. The delegate from Schuyler.

Mr. JARMAN (Schuyler). I rise to a point of order.

THE PRESIDENT. State your point of order.

Mr. JARMAN (Schuyler). The vote, as I understand, is 43 yeas and 38 nays, is that right?

THE SECRETARY. Thirty-seven.

THE PRESIDENT. The chair did not state that correctly. Thirty-seven yeas, is it, Mr. Secretary?

THE SECRETARY. Thirty-seven yeas and 43 nays.

THE PRESIDENT. The chair did not state it properly. The vote is 37 yeas and 43 nays, and the amendment is declared lost.

And the question is upon the adoption of the substitute, as offered by the delegate from Knox, Mr. Gale. Are there any further remarks?

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. The delegate from Schuyler, Mr. Jarman.

Mr. JARMAN (Schuyler). Under these rules, you are allowed to explain your vote when the vote is taken.

As you know, I have been very much interested in this question, and have supported by all honorable means the proposition of the limitation of Chicago in both houses.

In this endeavor, I feel that I have only acted in such honorable way as was open to me. I do not think that I have solicited personally any vote on this proposition. I understand, of course, that at this stage of this question section 7 as introduced here as a substitute will be carried. I understand perfectly well that there have been enough votes pledged in this Convention now to carry this substitute.

Now, I only want to say that during this controversy, in anything that I have said or done, I have never had a feeling of ill will against any representative in this Convention. I have never said an unkind word that I can recall, of any delegate that was on the other side; and now, while I cannot vote for this section 7, I feel absolutely without any disposition to interrupt or interfere with its proper operation or the proper or continued operation of this Convention with reference to any subject concerning it, so that while I am disappointed in the failure of the propositions that I have been in favor of, I am also free to say that I am perfectly at ease without any disposition to criticize anybody among the delegates in this Convention. (Applause.)

THE PRESIDENT. The question is upon the adoption of the substitute. Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I have listened with much interest to what has just been said by the delegate from Schuyler (Jarman), and I am sure all of us from Cook county have realized that he has conducted this debate not only in an able manner, but in a manner of great courtesy and of great learning. We have never suspected him of entertaining for us any but kindly feelings, because with our kindly feeling for him there has been no room in our hearts for any such suspicion.

May I say to you gentlemen that come from down State that when the vote was taken a few moments ago upon the senatorial article, there were twenty-four out of the twenty-five delegates from Cook county present who voted aye? I cannot impress upon you too strongly that many of those twenty-four votes were cast by men against their personal convictions, and only because they thought that now had come the time when this long drawn out controversy might be amicably settled. There were eight of those twenty-four who yielded their convictions only at the most earnest solicitation of some of us who have struggled for a compromise for all these many months, and I trust, gentlemen, that among you delegates from down State who have held so strongly to your convictions there may be found an equal number now ready to yield something of their convictions, so that we may dispose of this matter now and proceed to the constructive work for which we were sent here.

Mr. LINDLY (Bond). Mr. President.

THE PRESIDENT. The delegate from Bond, Mr. Lindly.

Mr. LINDLY (Bond). I suppose that there is nobody who doubts my position as to county representation. I do not believe that a man has to yield his judgment on this proposition, so far as his ideas are concerned, to

vote for this proposition. I am going to vote for this proposition because I don't believe that we can put county representation through this Convention, and I want to see this Convention go ahead and do some work and have a Constitution presented to the people and adopted. That is the reason why I am going to vote for it. (Applause.)

THE PRESIDENT. Are there any further remarks?

Mr. BARR (Will). Mr. President.

THE PRESIDENT. The delegate from Will, Mr. Barr.

Mr. BARR (Will). Mr. President, I realize that the time has come to vote perhaps instead of talk, but may I suggest that I have endeavored in every honorable way that I knew to assist in writing into the Constitution a provision that would limit Cook county in both houses. I assisted in every way that I could to bring about a provision for county representation.

The matter has been under debate and we have worked on it for a long time. I have come to the conclusion that a grave responsibility rests upon us delegates to make such concessions as we may find necessary in order to be able to write a Constitution that will first receive a substantial majority vote of the delegates in the Convention; and secondly, such a Constitution as will perhaps receive the approval of the electors of this State; and I believe that we have arrived at a compromise which is the nearest provision obtainable as to limitation; and while it does not suit me just exactly, yet I do believe that it is such a provision, or they are two such propositions that we from the down State and the gentlemen from Cook county can go before the electors of the State of Illinois and honestly and conscientiously ask them to vote for their adoption; and, Mr. President, I will cast my vote for section 7. (Applause.)

THE PRESIDENT. Are there any further remarks?

Mr. TAFF (Fulton). Mr. President.

THE PRESIDENT. The delegate from Fulton, Mr. Taff.

Mr. TAFF (Fulton). Mr. President and Members of the Constitutional Convention: I have always held the view that there should be a substantial and permanent limitation of Cook county in both houses. In deference to the opinions of what I thought were the majority of the delegates to this Convention, I surrendered that view and supported county representation. I realized at the time that county representation was not a permanent limitation. I realize also that the proposition on which we are now about to vote is not a permanent limitation. It is only prolonged and begging the question for a few years more.

Having surrendered my views to what I thought was the majority of this Convention, in order to cast my vote with them, and that, on the roll call, not seeming to be what was the opinion of the majority of this Convention, I cannot again surrender those views to support a less limitation, in my opinion, than would have been county representation.

Therefore, upon roll call, I must vote against the adoption of this section.

THE PRESIDENT. Are there any further remarks?

Mr. ELTING (McDonough). Mr. President.

THE PRESIDENT. The delegate from McDonough, Mr. Elting.

Mr. ELTING (McDonough). I have been standing and working for county representation in this convention, because it seemed to me that it represented best the two great principles that are employed and recognized by the United States government, that is, representation by territory, and representation by population. As was said by Delegate Taff (Fulton) while county representation is not an absolute limitation in the lower house, yet it seemed to me to be a fair limitation. It does not seem fair to me that one county shall have a great number of representatives and another county, for the reason it is a smaller county, shall be denied a representative in the legislature of this great State.

We are here, gentlemen, representing the State of Illinois, and what we may do that is good for the State of Illinois should be good for any county of the State. We are placed in this position by this proposal. We

have a county that is a creature of this State, and a city that is a corporation organized under the laws of this State in that county asking us to surrender the sovereign power of this great State to that one county.

Now, let us see. I submit for your consideration that at the time of the first Constitutional Convention, in 1818, we did not have any Chicago. In 1821 or 1822, Chicago was a little village upon the lake called a Village of Pike; Pike county at that time extended to Lake Michigan and included all that territory of Illinois lying north of the Illinois river. Since that time, in one hundred years, Chicago has grown to be a great metropolis; one of the largest cities in this country. It has grown to be the third financial center in the world, and it has great churches and educational institutions and many great business and commercial interests and we are all proud of it, but, gentlemen, during all the time that city has been built up under the beneficent influence and protection of the laws of the State of Illinois, and during all that time the down State has had the control in both houses.

Now the city of Chicago has nothing to fear from the State having a majority or control in the House, because this great city has grown, prospered and exists by virtue of the laws of the State of Illinois, that have fostered and nurtured this great city, and invited people from all climes and countries of the world.

That being true, there never has been any legislation detrimental to Chicago or Cook county, notwithstanding the down State has had control of both houses in the General Assembly and with this understanding, and the idea of fairness that has been presented by the down State, I do not feel that I can conscientiously sacrifice principle for expediency and support this proposition.

THE PRESIDENT. Are there any further remarks?

Mr. L. C. JOHNSON (Henry). Mr. President.

THE PRESIDENT. The delegate from Henry, Mr. Johnson.

Mr. JOHNSON (Henry). Mr. President and Gentlemen of the Convention: For the sake of harmony, and in appreciation of the concessions made by the delegates from Cook county, and believing that this compromise is the best that can be effected, and that it has some limitation, and for the purpose of advancing the interests of the Constitutional Convention, so that we may write a Constitution that is fairly acceptable to the people of the State, I desire to say that, having voted consistently for a stricter limitation of Cook county, I accept this as being the best obtainable, and shall vote for it. (Applause.)

THE PRESIDENT. Are there any further remarks?

Mr. DUNLAP (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Dunlap.

Mr. DUNLAP (Champaign). I do not rise, Mr. President, to make any remarks upon this question with the idea of influencing the vote of any member, but simply to explain my position with reference to it.

I think that you will agree that I fought as hard as I could for the limitation of Chicago in both houses. I believe that the county unit of representation is a correct, fundamental proposition that is absolutely American and the right sort of representation in a republican form of government.

Believing that, as I say, I have made what fight I could for this proposition. I try to fight as hard as I can and hit above the belt and have done so on these propositions, but I feel that in this Convention we have got to accept the situation, not as we would like to have it always, but as it is, and I believe that any further contention along this line would not be to the advantage of the people of Illinois, and I, for myself, have decided that in the vote upon this proposition I will vote for it. (Applause.) Not that I believe it is the best solution of this question that could be obtained, but it is the only solution that I see in sight.

I believe I have been in a good many fights of one kind and another in conventions of this kind and in the General Assembly, and I pretty nearly know when I am licked, and I believe that on this present occasion we have

reached that point, where we have got to conclude that if we go on with the work of this Convention we have got to bury this proposition back of us and forget our differences upon this and try to go forward in the perfecting of a Constitution that will meet with the approval of the people of the State.

Now, we have gained some things, in my opinion, that are worth while in this proposition, over the present Constitution—the requirements of the present Constitution. One of them is the doing away with minority representation. That was conceived in the idea that we would have minority party representation, but that has degenerated into a factional and interest representation that is not always desirable. This cumulative system of voting I think has done more harm in the politics of this State than any other one form of politics. We are getting rid of that cumulative system of voting, and then we are in a sense limiting the representation of the large City of Chicago; and we are doing that, not with our own votes down State, but we are doing that with the votes of the delegates from the City of Chicago and Cook county, and that has more influence with me in going along with this proposition than anything else, that they have come across and shown by their votes upon section 6 that they desire to meet us, at least part way, upon this proposition, and do not leave the responsibility altogether upon us.

Believing that they are sincere in their expressions of sentiment as shown by their votes, I think that down State we will have to meet them upon this proposition, and vote for section 7. (Applause.)

THE PRESIDENT. Are there any further remarks?

VOICES. Question.

THE PRESIDENT. The delegate from McLean, Governor Fifer.

Mr. FIFER (McLean). Mr. President and Gentlemen of the Convention: I regret exceedingly that the down State proposition failed to pass. Of course, Southern Illinois will suffer thereby more than any other section of our State, which is a fact I also regret. The good people of that section have, in both victory and defeat, always stood courageously by my banner, and of course, I have a very tender regard for them.

I once campaigned Southern Illinois in company with my dear old friend—Governor Oglesby, now of blessed memory. He constantly referred to the large pumpkins and the delicious persimmons produced in that section. In one of his speeches he closed with this peroration:

“You may talk of the fragrance of the rose of Sharon, and the beauty of the lily of the valley. You may dilate upon the luscious fruits of the tropics and the golden grapes of California, but for exquisite taste and superb flavor give me the Southern Illinois persimmon.” This sentiment I endorse.

Addressing myself to our Chicago friends, I will say that they made a splendid fight, and I congratulate them upon their victory in so far as one defeated is capable of congratulating the victor. Of course, you know that in the old days the Roman people gave a triumph to those who had gained great victories, and bestowed benefits upon the state. The victors rode in chariots with the vanquished chained to their wheels. I suppose, of course, Chicago on your return will bestow upon you for your great services a triumph of the character I have described. If they do, as I am sure they will, then I bespeak for the most tender and kindly consideration on your part for the illustrious ten who stood by you so splendidly in the battle just closed, and I wish to remind you that but for their efforts you would have achieved no victory. As the procession moves down the avenues of that great city, I bespeak for them front seats in the leading chariot. They deserve well at your hands and I insist that when you come to distribute your laurel wreaths that you should not forget the gentlemen for whose services you have, I know, a high appreciation.

The member from Mercer (Mr. Charlstrom) in his splendid speech on the proposition before us at the time said that future generations would entertain a very high regard and respect for the noble ten who voted with you gentlemen from Chicago. He intimated that possibly posterity might

erect a monument to their memory. As he warmed to the subject in the very exuberance of his enthusiasm, I really thought he was ready to rush from this hall, grab a hod and at once begin carrying bricks and mortar for a monument to himself. We know, however, that republics are sometimes ungrateful and it may be so in the case of the noble ten to whom I refer, and that is why I recommend them to the kind and considerate keeping of you gentlemen, who really led the battle and are entitled to a larger share of the prey.

I have been in fights enough of this kind to know when I am beaten, but before I surrender and come into the reservation, I would like to exact a promise from you gentlemen that when the monument is completed, I shall have the great honor of delivering the dedicatory address.

THE PRESIDENT. Are there any further remarks? If not, the question is upon the adoption of the substitute offered by the delegate from Knox, Mr. Gale. The Secretary will call the roll.

(Roll call.)

THE PRESIDENT. On this question the yeas are 76 and the nays are 6. The substitute having received a vote of the majority of the delegates elected to this Convention is declared carried, and is referred to the Committee on Phraseology and Style.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). I move that this Convention now adjourn until 10 o'clock tomorrow morning.

THE PRESIDENT. The delegate from Champaign, Mr. Green, moves that the Convention do now adjourn until 10 o'clock tomorrow morning.

Motion carried; whereupon the Constitutional Convention took an adjournment to Wednesday, February 8, 1922, at 10:00 o'clock a. m.

WEDNESDAY, FEBRUARY 8, 1922.**10:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, Rev. Jerry Wallace, rector, Christ's Episcopal Church, Springfield, Illinois.

THE PRESIDENT. The journal of Thursday, February 2nd, 1922, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the journal of Thursday, February 2nd, will stand approved.

Mr. Secretary, the Committee on Rules and Procedure submits a report.
(Report read.)

THE PRESIDENT. The question is upon the adoption of the report of the Rules Committee.

Mr. DUNLAP (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Senator Dunlap.
Mr. DUNLAP (Champaign). Mr. President, I would like some little information with reference to the report of the committee. Now, if we adopt the report of the committee, I would like to understand whether or not that becomes a rule of the Convention, the same as our regular rules? That is, that a majority of this Convention cannot postpone action upon any particular section or take up anything until final disposition is made of the proposition? It seems to me the Convention ought not to bind itself to a rule that is going to require either a two-thirds vote, or fifty-two votes, to rescind.

I think these articles that are reported in here by the committee ought to be reported in for action and placed upon the calendar, but if that means that we have got to take final and specific action on these before we consider other propositions, I think we ought to have an understanding on it, at least as to a ruling of the chair upon that proposition.

THE PRESIDENT. As the chair understands it, the nineteen reports of the Committee on Phraseology and Style are now on the calendar. The Rules Committee is trying to facilitate an orderly hearing of the reports that are on the calendar. This is a committee report, and subject to the control of the House at any time, the same as any other committee report, but for the purpose of facilitating the business of the Convention, we recommend that the sections be taken up in the order stated in the report.

Mr. DUNLAP (Champaign). It does not then imply that we must take final action upon the section if we wish to postpone action for any definite time, does it?

THE PRESIDENT. That is a matter wholly within the control of the Convention.

Mr. DUNLAP (Champaign). By majority vote?

THE PRESIDENT. I presume so. The question is upon adoption of the report of the Committee on Rules.

(Report adopted.)

THE PRESIDENT. In accordance with the report just adopted, sections 1, 2, 3 and 4 of the report, Report No. 11, the Revenue report of the Committee on Pharesology and Style, is now before the Convention for consideration. The Secretary will please read the sections.

THE SECRETARY. (Reading):

"Section 1. The power of taxation shall never be surrendered or suspended. Taxes shall be levied and collected only under general laws and for public purposes."

Mr. CLARKE (Lake). Mr. President.

THE PRESIDENT. The delegate from Lake, Mr. Clarke.

Mr. CLARKE (Lake). I desire to move the adoption of section 1. The Convention will notice that section 1, as referred to the committee——

THE PRESIDENT. Mr. Clarke, if you will pardon the chair just a moment, the committee reported recommending that sections 1, 2, 3 and 4 be placed on the calendar for hearing, the sections to be considered together, and the chair would suggest that the Secretary first read the four sections.

Mr. CLARKE (Lake). Certainly.

THE SECRETARY. (Reading):

"Section 2. The following classes of property may be relieved from taxation by general law: (1) Public property; (2) household furniture used as such up to \$500 in value; and (3) property used exclusively for (a) agricultural or horticultural societies, (b) incorporated societies of war veterans, (c) schools, (d) cemeteries, and (e) charitable or religious purposes, including parsonages owned and occupied as such.

"Section 3. (Part of reference section 1). Taxes on property by valuation shall be in proportion to its value.

Taxes on incomes may be progressive, but the highest rate shall not exceed four times the lowest rate; exemptions may be provided not to exceed, (a) \$500 to a person not the head of a family whose total net income is less than \$1,000, and (b) \$1,000 to a person the head of a family whose total net income is less than \$2,000; and taxes by valuation paid on property in this State shall be deducted from any tax on the income derived from such property.

Taxes on privileges, franchises and occupations shall be uniform as to classes.

Taxes on the income derived from intangible property may be levied in lieu of any tax on such property by valuation; but such taxes on income shall be uniform and substantial and there shall be no exemptions, therefrom.

"Section 4. Taxes on income shall be levied and collected only by the State; and the proceeds thereof in each county shall be apportioned between the State, the county and all taxing authorities within the county in the same ratio as the proceeds of taxes on real estate in such county are apportioned."

THE PRESIDENT. Under the rule just adopted, the four sections as read by the Secretary are now open for consideration by the Convention.

Mr. CLARKE (Lake). Mr. President.

THE PRESIDENT. The delegate from Lake, Mr. Clarke.

Mr. CLARKE (Lake). I move the adoption of the four sections, as read.

THE PRESIDENT. And the delegate from Lake, Mr. Clarke, moves the adoption of the four sections, as read. The question is upon the adoption of the four sections.

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). What I shall have to say upon these first four sections of the Revenue Article will be very general in its character at this time.

It seems to me, Mr. President, that probably neither the report of the Revenue Committee nor the changed report as it comes back to us from the Committee on Phraseology and Style entirely meet with the approval of any member of this Convention.

I conceive it to be my duty, as chairman of the Revenue Committee, to explain to the Convention what it seems to me are the differences between the two reports, and to give to the Convention what seem to me some of the reasons why one or the other wording should be adopted.

Before I begin, I wish to call the attention of this Convention to some very striking figures. The total tax levied in the entire United States for all purposes, both of the Federal Government and of states, cities and counties, in the year 1890 was about \$1,000,000,000. We now have a Federal

income tax, and under that tax there was collected by the United States Government from citizens of Illinois alone in 1918 \$268,000,000; in 1919, \$363,000,000, each upon the levy of the preceding year. In 1919 there was collected within the State of Illinois for all purposes, State and local within the State the sum of \$150,000,000; in 1920, \$190,000,000; in 1921, upon the assessment of 1920, \$214,000,000.

Those figures, Mr. President, do not include license fees of any sort or kind, and in the City of Chicago alone the vehicle license fees amounted to about \$8,000,000. They do not include Federal or State taxes, nor inheritance taxes.

It is manifest, Mr. President, that within the State of Illinois we collect today in all forms of taxes not less than \$260,000,000 to \$275,000,000, and in addition to that our people pay to the United States Government some \$350,000,00 in taxes.

Now, by the wildest stretch of imagination you cannot conceive that the total income of the citizens of the State of Illinois is in excess of two and one-half billions of dollars per year. In other words, we are now paying in taxes of all kinds 25 per cent of our total income. Now, people will tell you, and many delegates on this floor, I think, will tell you that that can't be true, because they do not pay any such proportion of their incomes in taxes, but I know of no way that you can get at these figures except by taking the entire amount of income possible and the entire amount of taxation.

A friend of mine said to me a while ago at home that I was insane when I gave any such figures as that. "Well," I said to him, "what was your income last year?" and he told me that it was about \$12,000, and I said, "How much taxes did you pay?" and he said, "About \$800." I said, "Fine, but I happen to be the attorney for a corporation in which you own 25 per cent of the capital stock. I happen to know that you paid \$32,000 income tax for that corporation, of which you, owning 25 per cent, paid \$8,000. Your income was really \$20,000, and you paid \$8,800 of it in taxes of all kinds."

The trouble is that when you come down to the individual, he doesn't figure what he really and truly has paid in taxes, but only the particular tax which he pays to his own county treasurer. The truth is, Mr. President, that we have well nigh reached in this country the extreme limit of taxation which can be enforced and permit the country to remain prosperous.

Now, Mr. President, that is not a condition that we are competent to deal with in this Convention. That is, of course, very largely due to the Socialistic theories which have found a place in our government, to the extent that we demand from government more and more from time to time, forgetful perhaps of the fact that every time we make a demand we make a fearful demand for money.

Parks, schools, libraries, any number of things which did not use to be regarded as the province of government, but as the province of individuals, have now come to the point where they must be paid for out of the public treasury, and one and all, they cost money in increasingly large quantities.

Therefore, Mr. President, all we can hope to do in this Convention is to lay a foundation on which the legislature from year to year can erect a structure of taxation which will do the least harm to the public, which will secure the money, so far as it may be necessary, in ways which will interfere just as little as possible with business.

After all, Mr. President, it is business with which the public is concerned, because governments exist for the purpose of enabling the individual to live more happily and more comfortably than he could live without them.

Now, business is the co-operation of individuals, without which co-operation the modern man cannot live. The savage can provide his own shelter, his own clothes, if he has any; his own food, but the modern man, the civilized man, cannot do that. He gets the necessities and the comforts of life from co-operation with his fellow men, which co-operation is business, and unless that business be prosperous, the people cannot be happy and

cannot be comfortable; and therefore whatever is done along the line of taxation must, if possible, be done in such a way as not unduly to interfere with or restrain or hamper business.

Now, the first clause of the report of the Revenue Committee, is as you can all see by following this report on pages 58 and 59, a long clause. It has been split up by the Committee on Phrasesology and Style, and very possibly well split up.

The first section of the report of the Committee on Phraseology and Style has only the two general sentences: "The power of taxation shall never be surrendered or suspended." They have left out the three words "or contracted away." I personally hold no brief for that clause. I have no objection to it. I think perhaps it is good sounding language and is a fairly good suggestion to put in the Constitution. I cannot and I never have been able to see a great deal of good in it. Nevertheless, I would keep it in the Constitution in the way in which it was reported by the Revenue Committee, to-wit: "The power of taxation shall never be surrendered, suspended, or contracted away." I think possibly it may prohibit such things as the granting of charters to corporations and exempting them from tax, such as was done notably in the case of Northwestern University, and less notably with some other institutions throughout the State. I think possibly it might prevent what has been done in a number of other States, notably in Iowa, the granting of exemption from taxation to factories on condition that they located in certain localities, and I am inclined to believe, Mr. President, that that is a good prohibition.

As to the three words, "or contracted away," I should like to hear, and of course, we will hear before we are through with this discussion, an explanation from the Committee on Phraseology and Style as to why those words were taken out. Possibly they add nothing. It had seemed to me that they did add that prohibition with regard to factories which located in certain places in return for an exemption from taxation, either forever or for some period of years.

Now, to the next sentence: "Taxes shall be levied and collected only under general laws and for public purposes." I am inclined to believe that the entire Convention, without exception, would be in favor of that clause. Taxes ought not to be levied under special laws. It ought to require a general law for a tax, and taxes ought to be levied for public purposes only. Therefore, Mr. President, it seems to me that that is a clause we can ill afford to dispense with, and I believe all of you would agree with me on that proposition. I think the entire Revenue Committee—some of them will correct me if I mistake their position; I assure them I do not do it intentionally—I think the entire Revenue Committee was a unit in favor of that clause.

Now, Mr. President, the next clause of the Revenue Committee report was the old clause requiring the levying of taxes upon property by valuation, and followed the wording of the old Constitution, and that clause, to a large extent, has been left out of the Phraseology and Style Committee's report. What has been left of it you will find in the first sentence of section 3 of the phraseology report on page 58: "Taxes on property by valuation shall be in proportion to its value." None of us could object seriously to that clause, but that raises one of the great questions on revenue which we must decide. If you keep the wording of the Revenue Committee, you have tied the legislature down to a valuation tax, except as later on it has been modified in their report, whereas if you adopt the wording of the Phraseology Committee you have not tied them down to that tax at all, but have only provided what shall be done in case they use that tax.

Mr. DUNLAP (Champaign). Where do you say that is found?

Mr. GALE (Knox). On page 58, Senator. I am using here for convenience in reference this book giving the reports of the Committee on Phraseology and Style, because they are all in parallel columns. Page 58.

Now, I will leave to someone else the argument in favor of the tax by valuation, because I emphatically do not believe in it. I believe that that

requirement of a tax upon all property by valuation—and that means something under our law at the same rate—is the real reason for the trouble with revenue in this State. I believe under any such clause you cannot treat the different forms of property as they ought to be treated.

Now, the clause prohibits classification of property for purposes of taxation. The prohibition of that classification appeals to a great many people, because they have a feeling that if property could be classified, the legislature would unfairly discriminate against the particular class of property in which they happen to be interested. The evil results of that, however, are shown in a great many ways. We have, for instance, before this Convention a proposal to exempt re-forested lands from taxation for a certain number of years. There was also a suggestion made, although it never got through the Committee of the Whole, that drainage lands should be exempted for a certain number of years.

Now, Mr. President, a great many other things might be thought of possibly as to which it is desirable there should be an exemption from taxation. Those matters are, however, exclusively legislative matters; they do not properly belong in the Constitution, and if you were to attempt in a Constitution to foresee for the next hundred years how many of these special things there are which should be treated differently on taxation, you would have a document which would not be a Constitution, but would fill a fair sized book. You solve that difficulty at once if you strike out this valuation clause; if you leave it to stand exactly as the Phraseology and Style Committee has left it, and merely provide that in case there be taxation by valuation, it shall be in proportion to value.

In that event, it would be possible for the legislature to take up any of these things that from time to time might seem wise, and for a limited period to exempt them from taxation, or at least partially to exempt them. It seems to me that that would be a wise thing for this Convention to do, and a wise permission. I do not believe that the dangers from classification are at all what many people fear. I do not believe that there would be much if any danger from it, but neither, Mr. President, do I regard classification as a panacea for the ills of taxation, and I would not be at all in favor of a clause in the Constitution which would require the classification of property, because I do not know that it would work out to great advantage, and I do not believe any member of this Convention knows that it would do so; and remember always on revenue, gentlemen, that if you put something hard and fast in this Constitution, you are tying up the legislative hands for generations to come. And remember that most of the evils of taxation come from that very tying up of the legislative hands.

I have tried to find some suggestion by students of taxation which would reach the inequalities which we must all admit flow from the uniform general property tax, by some other method than classification, and I have not been able to find any such method suggested. Any method which will leave the legislature free to deal with different forms of property in different ways I cannot find, except a measure which would permit them to classify property. If that be true, there is not any way of reaching these evils except by permitting the legislature broad powers of classification, and it must always be remembered that classes, even where that is permitted, cannot be made by the legislature for taxation purposes unless those classes are indicative of some inherent quality in the property sought to be taxed. In other words, I do not believe that the legislature can declare that a class exists when actually, and as a matter of fact, from the nature of the property it does not exist.

We come now to the fourth sentence of the Revenue Committee's report, beginning in the fourth line of page 59, which is the second sentence of section 3 of the Phraseology and Style Committee's report, and is the reference to income taxes. It gives permission to levy taxes on incomes. I suspect we are all satisfied that that permission has to be given to the legislature. The question is how. Shall we provide that the income tax shall never be levied except at a uniform rate? That is one view. May I

point out to you that if you adopt that rule, you must fix a limit of exemptions; otherwise you are face to face with the charge that a very high exemption will some day be fixed and taxes levied on the excess over that, say a \$10,000 exemption, which will be confiscatory.

You must also remember, in discussing the the income tax and in thinking how you are going to vote upon it, that no man in this room can be by any possibility live long enough to see the time when the Federal Government can depart from the income tax. That has got to be the main source of reliance for our Federal Government for many, many years, if not forever. That tax has got to be high; in its higher stages, very high. That tax is graduated and progressive.

Therefore, Mr. President, whether we adopt here a uniform tax or whether we adopt a graduated and progressive tax, we must take great heed; if we adopt the uniform tax we probably do not need a limit as to the rate which shall be in force, provided we make a low possible exemption, because no legislature having to fix one flat rate with low exemptions will ever dare to impose upon the incomes of our citizens a tax rate so high as to be oppressive. They might well do it if their limit of exemption were very large.

If, on the other hand, we are going to adopt a graduated and progressive tax, it seems to me that we should retain some such limitation as is here provided for, to-wit: That "the highest rate shall not exceed four times the lowest rate." I think, Mr. President, that that is a better limitation than to say, that the highest rate shall be a flat per cent, say 6 per cent, for instance; because I think whenever you put a definite highest rate into the Constitution, you immediately tempt the legislature to go to that limit, whereas when you put a relative rate, four times the lowest rate, you do not suggest any limit for them to reach, and also you make your tax more or less elastic. As expenses may increase, it surely is fair that the person with the low income who pays a tax should pay a little more in proportion to the one who pays the higher tax, or just in proportion as the one who pays the higher income tax must also pay more.

We come now to the next clause, being the second paragraph on page 59 of the Revenue Committee's report, and being the third paragraph on page 59 of the Phraseology and Style Committee's report. "In lieu of any property tax thereon, the General Assembly may provide a uniform tax on all income derived from intangible property, in which case the rate of such income tax shall be a uniform, real and substantial tax, and there shall be no exemptions therefrom, except as provided in section 3 of this article."

Now, I think that power should be left to the legislature. It is provided for in both reports. I think the wording of the Phraseology and Style Committee on the subject is a little better than that of the Revenue Committee. In fact, it is a good deal better, because it is only about 60 per cent as long, and if we are going to adopt either one, I think the Phraseology and Style Committee's report on that should be adopted. Of course, that clause does not require the levy of an income tax in lieu of taxes by valuation on intangibles. It does permit that. To that extent, it is an improvement on the present Revenue Article of the Constitution. That is a power which ought to be given to the legislature, and I think it would be very fair that that tax rate should be uniform, no matter what you may do with regard to the other rate, because after all, that is not a true income tax, but it is a tax on the property, to-wit, the intangible, measured, not by the value of the property, but by the value of the income therefrom, and therefore it should be at a uniform rate, if taxed at all.

There is one other section, or one other clause in the other income tax section, to which I want your very close attention, and that is this: "Taxes by valuation paid on property in this State shall be deducted from any tax on the income derived from such property." Now, Mr. President, if your income tax be a uniform tax, it would be possible to make that clause workable, because no matter where a man's income tax came from, in setting it down he could give it as coming from a certain piece of property, from

work that he did if he were a professional man; from dividends received, for instance, on intangible property, or from interest on intangible property; he could set it out in his income tax report, and he could also set out the amount of tax he had paid by valuation, and the one could be deducted from the other. Of course, in most cases it would mean that there would be no income tax paid on the income from that particular property, because the chances are that the income tax would never be so high that it would equal the valuation tax.

For instance, if a man owned a building in the city which was paying him a net rental of \$5,000 a year, and which was valued, we will say, at \$50,000, that would go on the tax rolls at about \$25,000, and in most of our towns that would mean a tax of some \$1,500 on that building. Now, there won't ever be a 30 per cent income tax levied in this State, I think, and therefore there would not be any income tax on the income derived from that property. But suppose you have a graduated and progressive income tax, from which step of the graduation are you going to deduct the property tax? I don't know and I am at a loss as to how to figure it out. I don't see how it could be figured out from the Federal tax. It is possible that if there were a flat rate for each person, with no surtaxes, nothing of that kind put in, that it could be deducted, because his tax then under this clause as we have it would be—we will say if the lowest tax were 1 per cent, he would come in the one, two or three per cent class, and you could figure it out just the same way. If, however, there should be an attempt to levy surtaxes, you would find it very difficult, I am inclined to think and my judgment is that under this clause as we have it, there couldn't be surtaxes, and if there could not, the difficulty of deduction would not perhaps amount to anything.

"Taxes may also be levied on privileges, franchises and occupations uniform as to class." That is the same in both reports, except again I am inclined to think that the wording of the Phraseology and Style Committee's report is better than the other wording.

If you do not retain the uniform ad valorem tax, there is, of course, no use for that clause. That is only put in there to give the permission to tax these things according to class, as they have to be taxed if they are taxed at all. If that clause as to the ad valorem tax be left out, of course this clause may also go, as they then have the power without the clause.

"The above specifications of the objects and subjects of taxation shall not deprive the General Assembly of the power to require other objects or subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this Constitution." That is left out of the Phraseology and Style Committee's report. I think it might well be left out of the section as passed by this Convention. I do not believe that it adds anything of importance to the article.

Mr. HULL (Cook). May I ask you if they would have the power anyhow?

Mr. GALE (Knox). I think they would have the power anyhow.

Section 2 of the Revenue Committee's report and section 4 of the Phraseology Committee's report refer to the method of the levying and collection of the taxes on income. I believe we would all agree—I think the Revenue Committee was a unit on this proposition—that income taxes, if we have one at all, must be levied and collected by State authorities, and not left to levy and collection by counties or cities or villages or towns. The only question is as to the best wording to reach what we are after here. Now, I do not like the wording of either of these sections. Take first the Phraseology Committee's wording:

"Taxes on income shall be levied and collected only by the State; and the proceeds thereof—" of course that is all right—"and the proceeds thereof in each county shall be apportioned between the State, the county and all taxing authorities within the county in the same ratio as the proceeds of taxes on real estate in such county are apportioned." Well, real estate taxes are not apportioned anywhere, so it does seem to me that—I think there again the Phraseology Committee has succeeded in getting what we were after in the Revenue Committee in shorter form. I would suggest,

however, that if we desire to pass section 4, and if we provide for an income tax in section 1 we must pass a section like section 4, the wording should be "Taxes on income shall be levied and collected only by the State; and the proceeds thereof collected within any county shall be apportioned between the State, the county and all taxing authorities within the county in the same ratio as the taxes on real estate in such county are assessed."

Mr. RINAKER (Macoupin). As the taxes on real estate are collected?

Mr. GALE (Knox). I would think "assessed" would be better, because you there get a definite percentage for each purpose. You get a percentage, we will say, for the city, for the State, for the park board, for the library board, for the schools. You have a definite percentage then on which you can divide it, Judge, and it has therefore seemed to me that instead of the use of the word "apportioned," the word "assessed" should be put in.

Now we come to the exemption clause, which is section 2 of the Phraseology Committee's report and section 3 of the Revenue Committee's report. I once again think that the Phraseology and Style Committee has reached a better wording and expressed the same idea that we did in the Revenue Committee. I am conceding a great deal to this Phraseology and Style Committee, but I call you gentlemen to witness that we created that committee in this Convention for that very purpose, with the idea that they would use better language than the rest of us were able to, and therefore when I concede these things I am only complimenting them upon doing the work which they ought to have done.

"The following classes of property may be relieved from taxation by general law": In other words, we do not compel the legislature to make these exemptions, and if anybody thinks that "may" means exactly the same as "shall," and that we do compel them to do it, then there ought to be some change made in this, because I do not believe any of us want to compel them to make these exemptions. I do not think we do compel them by the use of that word.

"(1) Public property." Of course, it is absurd to assess the property that belongs to the public. As to the property that belongs to the Federal Government, you can't assess it, and if you tried to you would have a conflict on your hands that would make you sorry; and there is no sense in assessing the property that belongs to the public of the State which might be assessed, but which it is foolish to assess when it is simply taking money out of one pocket to put it in another.

"(2) Household furniture used as such up to \$500 in value." That is an entirely new clause in our Constitution, and one, it seems to me, which ought to be adopted. The entire amount of household and office furniture in the State of Illinois, the assessed value of it is considerably less than 1 per cent, and the trouble and difficulty of collecting it is such, at least where the amounts is small, that it does not seem to me it yields any adequate return whatever to the State. I think you ought to keep that clause.

"(3) Property used exclusively for, (a) agricultural or horticultural societies." That is kept in from the old Constitution, and is probably correct. "(b) Incorporated societies of war veterans." I think we can all see the reason for putting that in; that these are associations which we ought to be glad to encourage and which we ought not to compel to pay for the support of the State, because in a way they are a public community institution.

"(c) Schools; (d) cemeteries, and (e) charitable or religious purposes, including parsonages owned and occupied as such." That clause, as you will notice, is new. There was considerable discussion about it in the committee. I don't know whether the Convention wants to go on record as exempting parsonages or not. It has not been done. Perhaps it ought to be done. Under the present Constitution, as you know, there are some communities where they are taxed and some where the assessor forgets that they exist. There ought to be one rule, and it probably ought to be passed for that reason.

I wish to call your attention and to have you consider this, whether where we say "property used exclusively for" we ought not to say "property used not for profit and exclusively for."

Mr. WOLFF (Cook). What about the cemeteries?

Mr. GALE (Knox). Cemeteries are included here. Now, gentlemen, that brings up a suggestion which was made the other day and which I feel it my duty to present to you, and at the risk of taking more time than I ought to take I want to read to you a letter, because I want you to be thinking about this and to see whether you want a proper clause in this Constitution or not. It does not now exist. It is not there in neither the report of the Revenue Committee or the phraseology and Style Committee. This is a letter from a gentleman who is very much interested in the subject of cemeteries, and he says:

"Under present laws the physical property of cemeteries is exempt from taxation." That is true. That is as it should be. The State taxes only property which it can take over and make use of in case of default in payment of taxes thereon. The State would have no use for a burying ground. Therefore, it is the uniform practice amongst all the states of the Union not to tax cemeteries.

"In the case of those cemeteries which are owned and managed by stock companies, a large percentage of them have been organized, and the capital invested for the sake of giving their respective communities a more respectable and better kept place for the interment of the dead than the earlier municipal or township cemeteries provided. The investment in such cemeteries is not considered desirable by one business man out of a hundred, as it is very slow to give returns. I am credibly informed that twenty years after Rosehill—now the leading cemetery of Chicago—was started, it was practically bankrupt. In later years, however, it has paid the stockholders fair returns. Nevertheless, twenty years is much longer than the average investor wants to wait for returns on his capital.

"The present corporation law of this State provides that all corporations organized for profit must make an annual report to the Secretary of State and upon that report said official assesses an annual tax to be paid by the corporation. If a number of enterprising citizens of any community are heartily sick of the disreputable appearance of the old burying grounds in use and desire to provide for a new one that is developed and managed according to modern landscape ideas and on business principles, there is no other statute under which they can incorporate than the statute providing for the organization of corporations for profit. Therefore, as soon as they take such a step, they bring the cemetery under that provision and thus are required to make annual reports and submit to the taxes levied by the Secretary of State.

"In other words, the later statute nullifies the former statute. The physical property was exempt from taxation by the earlier statutes, but the late corporation act levies a heavy tax through the office of the Secretary of State. The penalty of failing to make the annual reports mentioned and to pay the taxes levied is suspension on the books of the Secretary of State. That puts the cemetery in position where it is not legal for it to make any contracts. Then imagine the legal status of a cemetery in which the mortal remains of scores or hundreds of thousands of highly respected citizens of any county have been placed at rest after the ground is all sold out, the management ignores the requirements for furnishing annual reports and paying a tax to the Secretary of State! Nominally it is controlled by a corporation, but legally that corporation has no existence, as it cannot function as a corporation in the state in which it was incorporated many years before and in which it has pursued a legitimate and highly commendable business for two or three generations. Under those conditions, who does the property belong to? Who will go ahead and take care of it, granting that a perpetual care fund has been accumulated, the income from which is sufficient to care for the property in first-class manner. If the management of that third, fourth or fifth generation does not see fit to use any of the income from the perpetual care fund to pay large annual fees to the State, what is to become of a large cemetery the ground in which has been consecrated by the faith displayed by the purchasers of lots therein and by

the tears of tens of thousands of mourners who have placed their dead therein?"

Now, it seems to me, gentlemen, that that is worth very careful consideration. Before we come to a vote finally upon this section, I am going to try to work out a clause which will exempt or will give the legislature power to exempt the cemeteries from all forms of taxation whatsoever, and I shall offer it on the floor here in order to give the Convention the chance it ought to have to express its opinion on that point.

I have tried to cover, inadequately, of course, the ground of these first four sections. I hope that before amendments are offered to these sections, and of course, I know that there will be amendments offered, that there may be a discussion of the principles involved in this revenue article, so that the Convention may have a chance to express itself upon what principles should be followed, chiefly, gentlemen, these:

First, are you going to retain the uniform ad valorem tax, modified only by permission to levy an income tax as a substitute for the tax on intangibles, or

Are we going to have a revenue section which will leave the legislature a comparatively free hand in matters of taxation? You gentlemen know from the discussions hitherto that there are a number of states in the Union which have no revenue article whatsoever in the constitution, or, at most, this clause: "Taxes shall be levied and collected by general law, and for public purposes only." That is the Iowa situation, the nearest state to Illinois which is in that situation, and the legislature there can do anything with respect to taxation which it sees fit to do, so long as it does it by general law.

The next point you must consider is, what kind of an income tax you propose to adopt, whether it shall be graduated and progressive, and if so, will you have a limit upon it; or shall you provide that no income tax shall be levied except at a uniform rate?

In the third place, what are you going to do on that exemption clause? Are you going to leave in the exemption of household furniture? Are you going to go any farther on the exemption of cemetery property? It seems to me that those are the main points for discussion.

Just one point more that I want to touch upon, and then I am done. That is on the question of the income tax. I can see a very great argument in favor of an income tax at a uniform rate with a low exemption provided, that is to say, a provision that there never can be a high exemption. It does make the citizen pay in proportion to his income. It does give you a chance to say to every man, "This Constitutional Convention thought that you were man enough so you wanted to pay your fair share of government, no matter how small your income. You are just as good as anybody else." And I am inclined to think that that is an appeal to citizenship which is entitled at least to consideration. On the other hand, I have been in favor of a graduated tax, for this reason: The burden of taxation does not fall altogether upon the person who pays the tax. Taxes paid enter into the price of everything that we buy, so that every man, whether he appears on the tax roll or not, does pay taxes, which is only another way of saying that property taxes are to some extent shifted. The manufacturer, taxed upon his goods, fixes the price to some extent upon that tax, and therefore the consumer really pays it. Individual income taxes, on the other hand, are not shifted. The person who pays an income tax actually does the paying. The result is that the man who has a small income which is expended in procuring for himself and his family the necessities of life, actually pays a tax in the higher prices of living, whereas a man whose income is so large that only a part of it is used for the necessities of life does not pay such a tax at all, except upon that portion of his income expended for necessities. It seems to me, therefore, that there is justice in levying a graduated tax at a lower rate upon small incomes than upon large ones. Now, if your income tax were the only tax you had, so that there were no shifted taxes, there would be nothing whatever to that argument, but so long as you keep a property

tax, and I take it it is going to be kept in the State of Illinois, so long there is something to the argument that there is a shifting of taxes, a discrimination in the tax proposition against the man with the smaller income as against the man with the larger income, and there is the reason for the graduated tax.

Mr. President, I do not care to offer at this time, for the reason that I have just suggested, any of the changes I have suggested, that I would make in one or two of these sections, but unless someone else offers them, I will, before we are through with this discussion, offer these amendments. While we are discussing and considering these four sections together, nevertheless I take it that under the rule, Mr. President, we will vote upon the four sections separately.

I thank you for your attention. (Applause.)

Mr. KERRICK (McLean). I have listened, as doubtless all of you others have, with a great deal of attention and interest to what the delegate from Knox (Gale) has been saying to us. He concludes, after having pointed out very many features of the proposition which is before us now which will not have his assent or approval, and which evidently, from the entire tenor of his remarks, make of this proposition something which is not expected to be presented as it is now, nor in any form approximately similar to what it now is, before us for our consideration and discussion.

My view is that it is not up to those who may be said to be in the negative on this proposition as a whole to go to work and patch it up by amendments, which may in the end have no relation or material operation with regard to what is afterwards to come before us as a completed scheme.

I believe that it is the right of the members of this Convention at this time, and before we proceed one step further, to have presented to them what has already undoubtedly been formulated as the scheme for which the gentleman from Knox (Gale) and those who are in accord with him intend finally to contend before this body.

It is a leap in the dark. It is striking at something and not knowing what it is or where it is, that we are called on to do now. I confess that I would not have the least idea of how to go to work to patch up by amendments of one kind and another something that would put this provision into something near the shape that it would suit me, and the same is true of others; but these gentlemen have given their time, they have given careful and thoughtful consideration to some document that somebody now has in his pocket, which is the chart by which they intend to sail. Let us know what that is, so that we may determine in what respect it does not suit us, if there are any such respects. It is not fair to a body of this kind to put a thing out to them in that shape. It cannot be understood with relation to what we may do or with relation to what they have in their minds as their final proposition. I have never heard of any such proceeding before. Nothing of the kind has ever occurred before in this body. We want to know what we are up against.

Mr. GALE (Knox). May I ask the delegate (Kerrick) of that question was addressed to me?

Mr. KERRICK (McLean). It was directed to everybody. We want to know what we are up against. We can't have the least suspicion now of what would be an appropriate amendment or where it would land, or what effect it would have on a proposition which is evidently already framed, and which is going to have the support of certain members of this Convention. We are going to come to that sometime, and then we will probably have to do all over everything that we have done preceding that.

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). Answering the gentleman's query, I may say that I do not know. The delegate from McLean (Kerrick) knows from our long association together on the Revenue Committee the sort of section 1 of the revenue article that I personally would like to have.

Mr. KERRICK (McLean). I don't know now.

Mr. GALE (Knox). Well, I have tried to tell you at different times, and I thought you did. I would like to have a section 1 of the revenue article which would leave the legislature a free hand on the matter of taxation. I would like to have a revenue article which would cut out the uniform ad valorem tax as the basis of our taxing system. Now, I do not quite mean that. I don't mean which would force the legislature to abandon it, but which would permit them to abandon it if they wanted to; and further than that I cannot go. I shall try to be ready at sometime, when I see what the delegates want, and hear them, to offer some sort of an amendment which will permit that, because I want at sometime in the course of this Convention to have a vote upon that proposition?

Mr. KERRICK (McLean). Let us know now.

Mr. GALE (Knox). Well, I have let you now, as far as I can; but I understood that there were a number of the delegates here who wanted to express themselves upon this question of revenue and on these general propositions, and I wanted to hear what was said upon that. It might change my mind as to what I would want to do. I am telling you what my situation is now, and I can't answer the gentleman from McLean (Kerrick) any more clearly than I have done.

Mr. FIFER (McLean). Mr. President.

THE PRESIDENT. The delegate from McLean, Governor Fifer.

Mr. FIFER (McLean). I think the distinguished chairman of this committee owes it to this body, as chairman, to place something before us for our consideration that is concrete and definite. He says he is for neither one of the reports which we have under consideration, and if he don't know and presents nothing definite, for the rest of us to talk about, it is like bombarding a fog.

Now, if there is anything to be held back in ambush to spring upon this Convention at some future time, I think it is very unfair. I think that these gentlemen, and especially the chairman who has this matter in charge, ought to lay their cards on the table and stand for something definite and concrete; something that we can be for or against; and I hope that will be done and that we can proceed with this discussion intelligently.

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). A point of order, Mr. President. Are we not now discussing the report of the Committee on Phraseology and Style, and is not that the definite matter before this body at this time?

THE PRESIDENT. The point of order, of course, is well taken. The question before the Convention for discussion relates to sections 1, 2, 3 and 4 of Report No. 11 of the Committee on Phraseology and Style. These sections have reported for the consideration of the Convention the general principles of revenue, and are now open for discussion and debate. Are there any further remarks on sections 1, 2, 3 and 4?

Mr. WILSON (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Wilson.

Mr. WILSON (Cook). I should like to know the proper time to present an amendment to the section relating to the income tax. If you think this is the proper time, I will be very glad to go ahead with it.

THE PRESIDENT. The chair suggests, and it is only a suggestion, that the general discussion on this report be continued, and then from that discussion the probability is that some amendments may be evolved, that will facilitate the time of the Convention in the long run.

Mr. WILSON (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Wilson.

Mr. WILSON (Cook). Mr. President, I have an amendment here, but I shall not offer it now. The amendment provides, in a word, for an income tax without any discrimination, without any exemptions, and without graduation or progression. Of course, my reasons for this are that I anticipate that we shall always have an income tax by the federal government, and naturally the states will follow with such a tax.

I came down here two years ago with the conviction that a graduated and progressive income tax, as exemplified by the federal government, is radically wrong.

As we all know, the Constitution of the United States was enacted in 1787. Here is a quotation from the Article on Taxation:

"The Congress shall have the power to levy and collect taxes, duties, imposts and excises," * * * "but all duties, imposts and excises shall be uniform throughout the United States."

No mention is made of real estate or personal property, but history shows us that the taxation of real estate has always been uniform, and the question is—how do we arrive at the value of real estate for taxation? That is, what is it worth? The answer is—it is worth in proportion to what it will produce. If improved real estate in a city and rented, it is worth, say, 14, 16, 18 or 20 times what it will yield in rents or income. If vacant in the same city, it is valued at what it would be worth if improved similarly to the surrounding property. So, likewise, farm lands are valuable in accordance with their productive power, and so has come the established custom of the uniform taxation of real estate.

In 1787 there was little, if any, personal property such as we have today. There was little, if any, farming machinery, while the tools were such that permitted the farm labor to be done only by the hard and constant work of hand. If the growth and importance of personal property could have been foreseen, no doubt the dictum of the uniform taxation of such would have been introduced. As we know, there were no railroads, no steamboats, and no communication of any kind except by sail on the water and by horse over land, but today we sit in this Convention one hundred and thirty-five years after our Constitution was established, and we have seen personal property represented by securities involving enterprises of every conceivable nature reach values far beyond conception of even fifty years ago. So rapid has been our growth and so prosperous our endeavors that eighty millions of people have been added to our population within the lifetime of some members of this Convention. Since 1880 we have added sixty millions to our population. Probably our greatest prosperity has come throughout the last forty years. The growth of personal property has added difficulties to the taxation problem. We are disturbed about tangible and intangible property, and in this state our method of such taxation has been a merry-go-round of absurdity. If the assessor in his rounds could touch a horse or a cow, a mowing machine, a sewing machine or a piano, he would tax them and then guess at the untouchable stuff, and this has led in some instances to taxing dead things year after year.

In the course of time our Congress, wishing to raise more revenue, evolved the income tax, and during the great war that tax was made graduated and progressive, but the war brought to us a great emergency, and no one is disposed to criticise methods of raising money necessary to win the war, but in times of peace there remains the disposition to continue that method of taxation, which is destined to ruin the prosperity of our country as we used to enjoy it. When this Convention assembled, I came here with the idea that the income tax was sure to stay, and that therefore such a tax should be uniform and without any exemptions whatever. Every study I have made and everything I have done to investigate the results of the graduated and progressive income tax has confirmed that view, although I have tried my best to consider arguments upon the other side. I believe the graduated and progressive income tax is the worst tax that could possibly be devised in an enlightened, civilized and growing country; but, as exemplified in our Federal Government, it was largely a means to an end, whereas a uniform tax upon all incomes, without exemptions, is the best tax that could be devised, as it would readily take the place of taxation of tangible and intangible personal property.

I should now like to read to you from an article which I prepared in June, 1920:

"The graduated and progressive income tax was a drastic measure, justified to conduct the war. To continue such an income tax in times of peace will also be the means to an end, for it is likely to end the prosperity of this country as heretofore enjoyed. The graduated income tax is not a property tax. It is a socialistic tax. It is a tax upon the so-called ability to pay and it is therefore a tax upon ambition, incentive and devotion to duty. It is a tax upon good citizenship. It is a tax upon the manly attributes of high character. Such a tax is not uniform and so, as a matter of principle, it is wrong. If a graduated tax upon income from personal property can possibly be justified, then the same lack of uniformity may be applied to the taxation of real estate because all have not the equal ability to pay.

"If an income tax is to be levied there should be no exemptions except in the case of those classed as paupers and dependents. And they are not very numerous. The public records of Illinois show that only one in every 5,000 is in the prisons, in the hospitals, insane asylums and other asylums, so they don't amount to much. "A dollar is worth as much in one place as in another, no more and no less. A uniform income tax, without exemptions, at a very low rate would mean a very small tax upon everyone, which, in the end, would bring a very large sum. Such a tax should be in lieu of taxation upon tangible and intangible personal property. Classification of personal property would then be unnecessary and inadvisable.

"It is unjustifiable to levy a tax on personal income and then in turn to tax the personal property which yields the income. If a uniform income tax prevails a man's stock in trade should not be taxed, nor should the farmer's mowing machines, hay racks and other tools used in his industry. It has been an argument of some that the wage earner should be entitled to certain privileges in levying income tax, but let us see:

"We say to the wage earner in such case: Your money is not good, you are not classified as the best kind of citizen, and therefore we don't want your money. It is not as good as ours, you do not belong to the class which supports our government. It is true you have free schools, free books, free libraries, free parks, free boulevards, and nearly everything else free in this great country, and it is also true that in time of war we draft you to fight for us; but in a measure you are an outcast because you cannot qualify into the first class of citizenship, viz: that of a supporter of your government which gives you all of these privileges. I believe that such a position is an insult to the laboring man, because it is an injustice to his manhood; but we go even farther than that, for in effect we say to the wage earner:

"We shall allow only a few to pay income taxes and when such taxes grow to be a burden, we shall lay you off from our mills and our factories and shut down until times are better.

"Such a situation is before us now and is sure to be intensified. It will be intensified because surplus incomes have been largely exhausted, having gone to pay income taxes of the Federal government to the enormous amount during the years 1919 and 1920 of \$10,000,000,000.

"This country has grown great and powerful because of investments from surplus incomes. Such investments as we all know have gone into enterprises of every conceivable nature for the upbuilding of every portion of our country. But now we find surplus incomes to be almost nil and prosperity as formerly existing in our great country must halt to await the recuperation of surplus accounts, from whence must come the only hope for the extension and expansion of trade, to say nothing of its maintenance."

If that forecast and prediction was timely in June, 1920, how dreadfully true it has since become.

In 1920, when we were going pretty fast, I dictated what I have just read to you, and I dictated something else which I shall repeat now:

"What is this government of ours? Is it a government of the people or a government of a class? If a government of the classes, how long will it

last? Look across the Atlantic for the answer. This government is founded upon the principle that all men are created equal and free. Shall we, by legislation, deprive men of their equality by denying them the privilege of helping to sustain their own government? Not our government, but their government."

"What is self-government? It is self-support and self-support is manhood intensified and glorified. I do not believe the wage earners of this State, the laboring men and women, want to be set apart as disqualified in doing their share to support their own government. I feel sure if they are made to understand that all will be treated alike in the income tax as in the real estate tax, that the income tax will be uniform and that everyone, everywhere, will be taxed upon the same basis, they will be proud that this Convention has recognized that self-government is self-support and that self-support is the most honorable of all conditions.

"In the case of graduated income tax of the Federal government, who pays? It is the wage earner always in the end. Individuals, corporations, business firms can, as a rule, pay the tax, but in doing so they have been obliged in the past two years to largely diminish their surplus, to sell securities and borrow largely from banks." That was two years ago; it is worse today. "The banks of the country today are carrying large loans of a great many so-called wealthy corporations and individuals who have not heretofore borrowed money for years. When such a condition prevails, what is the result? It is curtailment of enterprise, decline of business, resulting finally in the discharge of labor, and such a condition will not conduce to the continued prosperity of this country. In other words, we cannot build up the so-called poor by tearing down those who are well to do. It has been well said that 'The suspension of one man's dividends means the loss of another man's pay envelope.'"

If that was true prophecy in June, 1920, how true it appears today.

"We should keep in mind in passing laws for taxation the great principle of citizenship for all and when we deprive by law a part of our citizens from participating in the support of their government, we take from them one of the greatest privileges of their citizenship. When they are brought to understand all that citizenship implies, I believe they will not only desire, but will be pleased to be placed upon equality with their fellowmen."

Our recent world history shows billions upon billions not only spent in war, but gone forever. But after the armistice it is known that the population of nearly every civilized country went into an orgy of extravagant money spending and our own country was the worst of the lot, for we missed not only an opportunity but also a sacred trust. By that trust I mean this, as I shall enlarge upon later:

Immediately after the armistice this country should have placed itself at once, where it *must stand* if we here are to again see prosperity as we formerly knew it. We should have placed ourselves at the world's base of credit supply in order that our own foreign trade could be resumed. We know and we now realize it seriously that Europe's buying power is gone and we begin to see that our surplus incomes, if any, should not have been used in taxation and spending at home, but reserved for future, world-wide credits to provide and sustain our own foreign markets for our surplus exports.

It is not too late now; but we seem to have no financial leaders in our National Congress. It will be too late, however, if our surplus incomes are to be so taxed that they will be diverted into payments for extravagant government, tax-exempt securities, high rate individual foreign government loans, instead of going where they once went into sustaining our own industries at home and abroad, to provide fair prices for our farmers and steady employment for our laborers.

Now, gentlemen, I am so interested in this subject that I may detain you quite some time. In a measure I have to apologize. This is my first attempt at making a speech. I hardly know how to go at it. As a matter of fact, I may seem composed, but I am trembling like a leaf, but I am going to stand up here and go to it just as long as I can. (Applause).

I have spoken of the laboring man. I have the greatest respect for the laboring man and for the wage earner. I know what it means to work. Sometimes I feel as if I would like to put my record up against that of some of the farmers here who have often talked about their work. I have no respect, however, for the labor agitator, the so-called business agent, who for his own personal gain misleads his own people and keeps them out of work while he luxuriates in a large salary.

The world has not changed in some respects, I have a memorandum here to tell you some personal experiences. We have a delegate here, our Mr. Sneed (Williamson), into whose countenance nobody can look without realizing that character is stamped all over it, and I wish all the people interested in labor were like him.

In 1892 I was interested in a building in Chicago with another man. We had a leasehold, and we wanted to get possession early in 1892 so that we could remodel the building and make it into an office building, adding two stories. Office building space was scarce in Chicago, and we saw an opportunity, but the third and fourth stories of this structure were occupied by laboring people. One was the United Order of Plasterers of America, or some such name; anyhow, they were plasterers, and they had a walking delegate. The fourth floor was occupied by the Knights of Labor, the then name of the labor organization of the country.

After a good many consultations with the walking delegate of the Plasterer's organization, he said to us, "Will you please put your proposition in writing and come down to our meeting?" We said, "yes." So we went down one Saturday night. The President of the plasterers and the Secretary and Treasurer sat upon a beautiful dias, upon cathedral chairs, with a green carpet on a floor that looked like new mown grass. Our proposition, a very generous one, was read by the walking delegate, and suddenly up jumped a little Scotchman—no reflections on our friend here. He seemed to me to be about so high; he had light colored shocky hair. He just gave us everything you can imagine. He talked about the capitalists taking away the rights of the laboring men, and he went on with that kind of speech for about half an hour, and when he sat down I thought the building would go down with applause; so I turned around to my two friends and said, "We have lost. We can't get possession, but I am going to reply to that man." They said, "don't do that, you might be mobbed." I replied, "I can't help that, we are here for business." So I said, "Mr. President, may I answer the gentleman who just sat down?" He said, "Why, I guess so." I began, "It seems to me, Mr. President, that man talked like a d—— fool." I never got any further than that. Caps were thrown in the air; coats were taken off and thrown in the air; handkerchiefs were waved, and I thought the very walls would come down, and I turned around to my friends and said "What's the matter?" They said, "I don't know what." I said, "Well, perhaps I have made a speech; I won't say anything further, except to ask the President to kindly have somebody make the motion that our proposition be carried."

That motion was made and carried without a dissenting vote. Going down the steps, I remarked to the walking delegate, "What does this mean? What took place here?" "Why," he answered, "that fellow is an agitator who has talked here at every meeting, he has balled us up a good many times, but nobody has ever replied to him; you are the only man that ever did reply to him, and you carried the day."

I am going to speak about another matter that is also true, which took place in 1909. As my good friend, Mr. Traeger (Cook) will know, there was organized in Chicago in the Police Department a Policeman's Union. I had forgotten part of that "building" story, and the best part of it. I will go back to it later.

A certain policeman got permission to organize a Policeman's Union, and asked for a \$10.00 fee per year. Meanwhile there came into the Mayor's office a number of communications, many of them anonymous, purporting to be from wives or children of policemen, who objected to an assessment. The Mayor did what he could to stop it, but finally the man collected a good deal

of money. After he got through, he went away with \$10,000, and was caught and convicted. Another case of agitation.

But the funny part of this "building" story is this. The Knights of Labor would not talk with us; they would not do anything. But we had one of the old leases which invited the landlords to come in and take possession in case of non-payment of rent. We had John H. Hamlin as a lawyer. Those of you who remember John know that he was a fighter. He said, "How do those people pay the rent?" I said, "They pay it sometime during the month, if we go after it." He said, "This is the first of November. Have they paid the November rent?" I said "No". "Well," he said, "on the third, Monday, we will have them in the street"—and he did. La Salle Street at the corner of Lake was full of desks and chairs and hats, caps and belts, regalia of every kind. About ten o'clock that morning Mr. Hamlin called me up and said, "Those fellows are here." "What fellows?" He said, "The Knights of Labor." "What do they want?" He said, "Three thousand dollars." I replied, "Never." He said, "Do you want to see them?" "No," I said, "I don't want to see them, but you had better bring them over." Mr. Hamlin finally settled with them for \$300.00, and I asked to whom I should pay the money. The President said, "Our treasurer, this gentleman here," so I wrote a check, made out to the treasurer for \$300.00. He took the next train for Buffalo, and has never been seen since.

I have told you something about the laboring leaders, but I have another memorandum here. I have great faith in the laboring men, and I want to tell you of an experience I had during the war. Mr. Wetmore was at the head of an endeavor of the Central Liberty Loan Committee, and he suggested during one of the drives for bonds that we see how the money was coming in among the foreign people on the West Side—we spent some evenings at this. It was in November; it was cold—and in booth after booth we met good women who could speak our language, and perhaps three or four foreign languages, spending their time every evening talking to citizens of this country who could not speak English. I saw no less than twenty or thirty men who could not talk English dig money out of their pockets to buy Liberty Bonds. I do not believe that we could have sold our Liberty Bonds if they had not been generous souls and the laborers and wage-earners had not taken so large a part.

Shortly after the armistice a New York banker visited Chicago, and came, as he said, with the approval of the New York bankers, and, of course, his statement was true, because he was from a well-known banking concern, to make suggestions to plan immediately for the preservation of the world's commerce, our own particularly. He had spent two years abroad during the war, and he knew something of the conditions. He suggested that this government, and our people, as parties to the government, get down to a basic plan of providing world credits, so that we ourselves, for our own good, could go on with our foreign commerce. Briefly, the proposition was about as follows:

For example he took Poland, because Poland happens to have some good cotton factories. He said, "Supposing Poland," which, of course, we know has been at war since, and is very much worse off now than it was at that time perhaps. "Supposing Poland wanted a hundred million of our cotton. Let the cotton factories over there give their credits for it. Let the Polish government stand back of those credits, and then let the United States, as it should, stand back of the Polish government. Let the United States issue bonds for that credit of a hundred million dollars, and let the government sell those bonds to our people because they would be glad to get them, and those bonds would be good. Investors, people with surplus incomes, would have to buy those bonds."

Nothing was done about that. Everybody was glad and relieved that we were through with the war—so we went on as before. Meanwhile, what has taken place? This banker from New York said that it would be a mistake for private bankers, in his opinion, and I think he was right, to make

individual loans to foreign governments; that we would not get anywhere in the general scheme for the restoration of business and that the rates of interest would be high and would reflect upon us. Since that time we have made loans to Brazil, Argentine, Switzerland and other countries, at eight per cent and a commission, the commission generally five per cent. Those countries cannot stand it, and it will reflect upon us. High interest rates in the scheme of trade relationship are sure to come back upon us. That is why I wish we had financial leaders in Congress.

We hear the statement made since our Federal income tax that the rich are growing poorer and the poorer are growing richer. There never was a theory quite so false. It is just the other way, because the so-called rich are not now investing what remains to them after the income tax in new enterprises. They take no interest in any prospectus involving new speculative industries. It is not only difficult enough to find money to keep the old ones going, but the ambition and inducement to enter new projects is stilled. Therefore the money is going into interest bearing securities which are quietly put away. There is an old financial adage "nothing will beat six per cent," and that is true, and the residue of heretofore active men is looking for interest and not for business ventures where so much of the profit will be taken for taxation.

I believe no proposition involving \$250,000 to \$1,000,000 for a new enterprise could be raised in Chicago today, and the reason is that men do not want to take the risks and undergo the trouble involved and at the same time be subject to huge taxes—no matter how profitable the new enterprise might be. Why should they? They can invest their money and sit still.

There was a meeting in Washington the other day at which a tax expert—and I won't mention his name, because he has been quoted here in this Convention; not perhaps in open Convention, but by individuals—made the statement that we should stop issuing tax-exempt securities, because the rich were growing idle. Now, I wonder if he knows of any law that will put the so-called rich at work. I wonder if he knows of any law, that will compel people to invest in an enterprise if they are not so disposed.

That brings me to the question of tax-exempt securities, and there is a proposition now to amend the Constitution of the United States to prevent the issuance of tax-exempt securities, and it is aimed—we have got to be plain in this—it is aimed, just as I should aim at the center of that clock and miss it, at the so-called rich; that is some ethereal, heavenly substance in the air apparently that is showering gold upon the people. I think the proposed amendment if enacted would be one of the greatest mistakes this government has made.

People who are asking for that amendment probably forget that tax exempt securities are issued by states, counties, cities, towns and villages mainly for the purpose of public improvement. They have been tax-exempt because it has been thought wise to have such securities the best securities obtainable. Now, suppose you release the tax-exempt privilege by federal enactment? What will happen? Every inhabitant of every State in the Union, from California to Maine, or from the North to the South, will find that his State, his county, his city and his town is in a competitive market with every other bond that is good, and when a bond is good, it is good enough. And every inhabitant in the country, wherever he may live, will be paying more taxes for interest and will have a limited market for such securities. That is not an exaggerated statement. It is a forceful fact. I think if this Convention were the legislature I should like to introduce a resolution of protest.

These things are taking place because the people of this country are not giving the proper attention either to their government or to the financial or economic structure of their government. That is one of the main reasons why I should like to see a uniform income tax. I should like to see everybody—and I do not know why he should not—pay something, to the support of this government

It has been said a small uniform income tax would not bring enough revenue; that the people have not the money, etc. Let us meet this by showing the people not only have the money, but what they do with it. Mr. P. P. Claxton, United States Commissioner of Education, in his statement last March produced an astonishing array of figures. From his report, I wish to quote the following:

"According to Government returns for 1920, the people of the United States spent for luxuries in that year 22 Billion, 700 Million Dollars, more than 22 times as much as they spent for education only two years before and 6 Billion Dollars or 30 per cent more than we have spent for education in all our history. The following are a few of the expenditures for luxuries among other items in 1920: face powder, cosmetics, perfume, etc., furs, soft drinks, toilet soaps, cigarettes, cigars, tobacco and snuff, jewelry, luxurious service, joy rides, pleasure resorts, etc., chewing gum and ice cream.

This statement shows an expenditure of \$206 each for luxuries for every inhabitant of the country. If one-tenth of that sum, say \$20 each, had been paid as income tax, it would have brought to the Government 2 Billion, 200 Millions, while one-fifth paid for luxuries would have brought 4 Billions, 400 Millions to the Government. The above statement is not exaggerated. I believe figures will show our payments for luxuries are much higher.

Four Billion, Four Hundred Million Dollars is more than the progressive and graduated income tax has brought to the treasury in one year.

There is an item of \$800,000,000 for cigarettes, (cigars, tobacco, etc.). That seems very high, but I have some figures here. The output of cigarettes in this country in August last was 5,134,524,337 odd cigarettes. That means 342,301,622 pkgs. (15 in pkg.), at 20c a package that is \$68,460,324 for one month. For twelve months the figure would be \$821,523,888 odd.

I think the item of \$800,000,000 (for cigarettes, cigars, tobacco, etc.), in Mr. Claxton's report is small.

Now, how many people do you think patronize the movies alone in Chicago every day? The figures show 575,000 a day paid admissions to the movies in Chicago. At 15 cents each, which I think is the lowest admission to any theatre, and some are much higher, the average amounts to \$86,250. This is a total of \$31,481,250 for the year. It means \$11.65 for every man, woman and child in Chicago.

MR. HAMILL (Cook) Per year?

MR. WILSON (Cook) Yes, movies alone.

Governmental statements of 1921 tell us that for ice cream and soft drinks at soda fountains the people have been paying in taxes between 60 and 70 Millions a year, or 10 per cent on \$700,000,000.

The item of club dues and admissions to clubs has yielded the Government over 75 million dollars in the year 1921. This means an expenditure of \$750,000,000 for this item alone. We are great joiners. We join every thing but the United States. Suppose we cut out a few other clubs and join the United States. It's the best club in the world,—no initiation fees, while the annual dues would cost us less than any other club and give us more in return than any club in the world, etc.

The Government estimates that the 110 million people in this country have been paying an average of \$5.00 each for taxes known as nuisance taxes. If they had paid the Government simply what they paid last year for the nuisance taxes, the sum would have reached \$550,000,000.

The tax bill recently passed provides that the manufacturers shall pay the nuisance taxes. The tax bill will be there just the same. The so-called "manufacturers tax" when it comes to be understood will be found to be just as burdensome, if not more so, than the excess profit taxes. There have been over two hundred amendments to the 1918 bill which now apply to the manufacturers tax. It is intricate and difficult to understand, but its provisions are destructive of business.

Experts say that under the new so-called manufacturers tax, corporations whose net earnings do not exceed 9½ per cent on their invested capital will

pay a greater tax under the 1921 law than under the 1918 law, and corporations whose net earnings are less than 8 per cent on invested capital will pay 25 per cent more tax.

When the present tax bill was enacted, if the reports are true, the House of Representatives, when the item of the minimum surtax of 50 per cent was finally passed in the bill, are reported to have applauded, Republican and Democrats alike. I think they were political cowards, if that is the case, because in the first place the Secretary of the Treasury wanted a thirty-two per cent minimum tax and gave his reasons for it. The President was willing to compromise on forty per cent. I don't know, but I am told the House agreed to it; anyway, it was raised.

Mr. DAVIS (Cook). You mean maximum, you don't mean minimum.

Mr. WILSON (Cook). Well, either way, maximum or minimum. Perhaps your suggestion is right.

The item of luxuries leads us to consider the automobile industry, the third largest in America. In some respects our automobiles have led us to public profligacy, and we are still boosting them. It was recently shown that the upkeep of automobiles on the farms in this country amounted last year to the enormous sum of 1 billion 60 million 385 thousand dollars. This sum is almost as much as our entire national debt before the war. It is almost as much as the value of our wheat crop of 1920, which was approximately 1 billion, 135 million, 800 thousand dollars. The value of our corn crop in 1920 was 2 billion, 189 million dollars, and it seems that it took nearly one-half the value of that corn crop to pay for the upkeep of the farmers' cars. These figures are staggering, but they are typical and they bring this thought—How many of the automobile owners are paying an income tax to help support this joyful land of plenty and privilege? How many of the automobilists who were driving past St. Luke's Hospital in Chicago every night the five weeks that I was there, riding until after 3:00 a. m., were paying an income tax? The vast majority of our pleasure-seeking public are actually protected by law against the payment of a small income tax annually to support their government, of which they are all proud, but do practically nothing now to show it.

The people of Illinois must bear their proportion of the moneys spent in luxuries last year, and no doubt the people of this State did spend their proportion, and this therefore shows that they spent in various luxuries in the year 1920, \$1,342,442,000. If the people of Illinois had paid into the State in income or personal property taxes one-tenth of what they paid for luxuries in 1920, the State would have received \$134,244,000. The collection of personal property tax from all the State in 1919 was \$41,805,927.22, about one-third of the expenditure for luxuries. Is it asking too much of the people to pay to their State one-tenth of what they are disposed to devote to luxuries?

Let us take the automobile pleasure car item in the State of Illinois. It is estimated that the upkeep of the cars in this State costs \$573 apiece.

If less than one-tenth of the people of Illinois owning automobile pleasure cars had paid to the State as an income tax one-tenth of what they paid for the upkeep of their pleasure cars, the same would amount to \$32,433,000. This sum would be more now, as we have over 100,000 more automobiles in 1921.

I am citing these things, to show not only that the people have the money to pay, but they will pay gladly if the economic situation and their own political duty is put up to them so they will understand it.

Some time ago there were said to be 11,000,000 cars in the United States. No doubt there are more today, because constant statements are being made that they are increasing from a million to a million and a half per year. Let us cut a million pleasure cars and call it only 10,000,000. The figures show that we are spending for the upkeep alone of automobiles, to say nothing of the original cost, the enormous sum of \$5,000,000,000. This is about \$50 apiece for every man, woman and child in the United States. But we say automobiles are necessary, and therefore the expense is neces-

sary, but this country was the greatest and most prosperous country in the world before pleasure cars came into being, and this sum of \$5,000,000,000 is five times as great as the billion dollar Congresses which we used to call extravagant.

The Automobile Chamber of Commerce shows that the farmers of this country spent 55 per cent more on new cars in 1920 than upon new agricultural implements. This is no criticism of the farmers, because the people in the cities go the farmers several times better with their chauffeurs, their garages, their car duplications and the general show.

Let's look at it another way. The population of this State is 6,485,200. The census shows that nearly 61 per cent of the population, or about 4 million, are 21 years of age or over. The number of Federal income tax returns in Illinois was 422,281 or about 6½ per cent of the total population. The average net income return was \$3,938. The average luxury expense for the same number of people who made income tax returns was \$3,131. In other words, they spent nearly as much for luxuries as their reported average incomes.

Let us go a little further. The average amount of income tax paid by citizens of Illinois was \$235. The average amount paid in the upkeep of automobiles alone was \$573. In other words, 6½ per cent of our people paid \$235 each income taxes to the United States Government, while 9½ per cent (now over 10 per cent), of our people, paid \$573 each for the upkeep of automobiles, to say nothing of the original cost. Not to criticise the people, or to criticise any industry, the economic situation of these facts make us appear ridiculous. We are bound to have our pleasures, but we are willing that somebody else should pay the taxes.

A subject of national and local importance is the American railroad business—the greatest business in the world. Our railroads, constructed by the surplus incomes and savings of a provident people, have built up our country in all directions. Great cities, great forests, great farms, great industries, great fortunes, all combined to make the greatest and richest country on earth. Without the railroads we would have been as nothing, and all the while we have been pestering and nagging them to the breaking point. It has been said, and I believe it is true, that the Interstate Commerce Commission, prior to the war, had not granted to any railroad a single request. Meanwhile, for more than fifteen years prior to the war, the railroads were a public target. The United States Government, through its representatives on the firing line, followed by states, counties, cities, towns, villages, newspapers, and politicians generally. If a man wished to go to Congress, for instance, it seems that the important steps to get there were in lambasting the chief railroad in his district. The statement was once made to me by a former president of one of our great trans-continental lines that it was impossible for him to run a train from Chicago to California without transgressing scores of laws in each state through which the train passed. Nevertheless, he had to keep going. As a matter of fact, railroads were so hampered by the multiplicity of restrictions everywhere following public criticism that many of them were actually saved from disaster when they were taken over by the Government during the war.

Referring to the railroads, public utilities, etc., I want to quote from a speech by Mr. Herbert Hoover before the Interstate Commerce Commission last week:

"One thing is absolute. Our transportation facilities are below the needs of our country. Unless we have a quick resumption of construction, the whole community—agricultural, commercial and industrial—will be gasping from a strangulation caused by insufficient transportation, the moment that our business activities resume.

"Few seem to realize the amount of expansion in our transportation machine necessary to keep pace with the growth of the country. And an equal few seem to have any notion of the price we are paying for not having it. The very moment we reach anything like normal business we shall have a

repetition of car shortages, followed by an increase in the cost of coal to the consumer from \$1 to \$3 a ton; we shall again see a premium of twenty cents a bushel for use of cars for moving grain; we shall in fact see a shortage of commodities to the consumer, and we shall see gluts upon the hands of the producers. We shall see factories filled with orders again closed for lack of cars; we shall see intermittency in employment; we shall see the usual profiteers in commodities due to a stricture between the producer and consumer.

"Surplus capital is pouring by hundreds of millions monthly into tax-free securities and foreign loans, and yet our railways are unable to finance the most moderate of construction programs.

"There would be no cost to the taxpayers of the United States in a program by which the government guarantee would be given to equipment trusts, with the railroads primarily responsible and agreeing to use the cash from such negotiations for improvement and new equipment.

"I wish to say with all responsibility for the statement, that a billion dollars spent upon American railways will give more employment to our people, more advance to our industry, more assistance to our farmers than twice that sum expended outside the frontiers of the United States—and there will be greater security for the investor."

Meanwhile, what has happened? For fifteen years our entire population everywhere seems to have been boosting the automobile industry. Everyone everywhere seems to be crying for good roads and every state is building them. Even the United States Government itself is apportioning many millions of the government's money received from the taxpayers to various states in the Union which are building good roads. I believe this is a wrong and unjustifiable use of public funds, but it is one of the extravagances pursuant to the graduated and progressive income tax. Why should the people of Illinois pay governmental income taxes, portions of which are allotted to pay for good roads in Ohio, Indiana, Oregon or California? It is one of the many extravagances which abundance of money is sure to bring about. I am citing these things to show how thoughtless we all seem to be of our governmental affairs. We go to extremes, not realizing we are going to be hit until we are knocked down. Think of the anomalous situation. All of our people criticising and pestering the railroads, our greatest and most important industry, and at the same time extravagantly boosting the automobiles, our third greatest industry. There are billions invested in trolley lines, and public service corporations of great importance. Public service corporations have been at the mercy of political and public criticism. Consider, for instance, the situation in Chicago—and it is typical. The street railways of that city have to pay a franchise tax, a property tax, and a car tax, etc., and for maintaining their right-of-way. In addition to this, they pay 55 per cent of their net earnings to the city, and they seem to be always within the grasp of politics. Meanwhile several taxicab companies, one particularly successful, seem to have a perpetual franchise upon 167,000 miles of paved streets in Chicago, for which they pay practically nothing. This is a curious situation and again shows how little attention we are apt to pay to actual conditions.

MR. HAMILL (Cook) Would it interrupt you very much, Mr. Wilson, if we took a recess now and if you continued at two two o'clock?

MR. WILSON (Cook) Nothing would interrupt me; I am not very much of a speaker. I will do whatever you gentlemen think best, but I want to go on some time.

MR. HAMILL (Cook) Then I move you, Mr. President, that we do now recess until two o'clock.

(Motion carried; whereupon the Constitutional Convention took a recess to February 8, 1922, at 2:00 o'clock p. m.)

2:00 o'clock P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. The Convention will please come to order. The pending matter for consideration is sections 1, 2, 3 and 4 of the report of the Phraseology and Style Committee on Revenue.

The delegate from Cook, Mr. Wilson, has the floor.

MR. WILSON (Cook) I think I had gotten as far as automobiles when Mr. Hamill asked for a recess.

Gentlemen, I am trying to consider the income tax, as you will notice, from a national standpoint, because in a national sense it has been intensely exemplified.

My belief is, and I will go so far as to say that an income tax of one per cent without exemptions on incomes in Illinois would yield more by far than has ever been collected from the tax on personal property; and that is why I am going into this matter in a national way, to show you where taxes have been levied and for what they have been expended.

We are now spending large amounts for highways in this state, so I want to tell you what actually has happened in New England, which has spent millions for good roads. In Connecticut, for instance, the legislature appropriated 3 Million, 300 Thousand Dollars for good roads to be spent over a period of two years. At that time it had a great abundance of good roads, paid for by the taxpayers, who are still paying. One result is that Connecticut's good roads are used daily by great numbers of automobile trucks which deliver merchandise from the surrounding manufacturing districts, Philadelphia, New York, Boston, Providence, Springfield, Holyoke and numerous other manufacturing centers. These automobiles go quickly and easily into Connecticut, distributing merchandise, paying actually nothing for the privilege, because the car license, paid for in other states, qualify them for the traffic. Meanwhile, it is conceded that the great railroad of New England, the New York, New Haven & Hartford, will never come back to its former profitable condition. Every individual seems to own a passenger car, and every business firm a truck. A trolley line running from New Haven along the Sound to New London and up the Thames River to the city of Norwich stopped operations about a year ago last June and has not turned a wheel since. The cause was a strike, but the opportunity to discontinue business was welcomed by the owners of the road. That trolley line had to pay enormously for its right-of-way and its privilege to operate. Meanwhile the automobile industry, competing with it, acquires a perpetual right-of-way at a cost of a small license tax for each car, while the taxpayers are footing the bills. The incongruity of the situation is apparent. It costs about twice as much per mile to build a state highway which will stand the traffic of automobile trucks, as it costs the railroads to buy, pay for, and build the usual right-of-way. What has happened in New England is likely to happen in Illinois. It is not difficult to picture even in our own great state automobiles from industrial centers within and without our own territory using our highways in competitive business energy at practically no cost, while our own taxpayers are footing the bills.

I am not criticising the automobile industry, but I think the way we have handled it typifies our methods of handling other great matters. It all has a bearing upon our situation here.

The apparent ease of collecting vast amounts of money has seriously misled us. We are approaching rapidly a condition wherein our own Government is not respected by the masses. Numerous and various laws are constantly being enacted and under conditions brought about by governmental agencies which have no place in a Government such as ours, and all because our people do not choose to give sufficient time and thought to governmental affairs. That is why I consider it my duty to lay before the delegates to the Constitutional Convention of this State those things to be considered.

Heavy taxation, bringing money in large amounts, leads to many kinds of extravagant legislation. Take, for instance, the "Federal Aid" idea and

consider the proposition in the Sheppard-Towner Bill recently passed by Congress. This and other such bills involve an appropriation of 169 Million Dollars. Some of these bills were passed and others are pending. Some of the bills had no real authority for jurisdiction, but they went through, the theory being to get the money and, of course, to spend it afterwards.

Federal aid means paternalism in government. Paternal means fatherly. If we are to be fatherly, let's help every one who chooses to organize associations for any purpose. Let's buy estates for the rich, let's buy yachts for the middle class, and let's buy automobiles for the poor. Let our fatherly Government give its children everything they happen to want and treat them all alike, as a wise father should.

I quote from the Honorable Frank O. Lowden in his Convention Address at the University of Chicago last June:

"There is scarce a domain in the field of government properly belonging to the municipality or the State which the Federal Government is not seeking to invade by the use of the specious phrase 'federal aid.' Education, public health, private employment are a few instances which readily come to mind. The bureaucrats who initiate these movements for an extension of their own power, draw great strength from the class specially affected. *This rapid extension of federal administration not only means greatly increased expense because of duplication of efforts, but it means the gradual breaking down of local self-government in America.*"

I also quote a recent address from Nicholas Murray Butler, president of the Columbia University, as follows:

"The American form of government is in danger whenever a group of men endeavor to operate in the interest of a section or a class. A labor party or a farmers' party is as un-democratic and as un-American as a millionaires' party, or a shipowners' party would be."

"The farmer, wageworker, manufacturer, business man, whether great or small, is paying heavily today for the un-American and unpatriotic act that was forced by threat upon the statute books of the United States in the early days of September, 1916, known as the Adasson Law. This law established a privileged class among us and thereby increased the cost of living for every man, woman and child under the American flag."

"Senators and representatives in Congress vote with fierce joy to impose in time of peace very high taxes on wealth without in the least appearing to realize that by thus diminishing the amount of productive capital they are depriving the farmer of his market, the wageworker of his employment, the transportation system of its freight and the business man of his trade. Ignorance, the old enemy of human well-being, is still powerful and active."

Here is a quotation from Mr. J. C. Gifford, ex-president of the Board of Trade:

"There can be no definite end to business depression until United States capital enters Europe and backs business there.

"Instead of waiting until some freak of nature destroyed our cotton, would it not be better to send half of our crop to idle looms in Europe, furnish capital to employ the cheap labor available there, and then receive our returns when these finished goods were marketed? England knew what to do with its gold when it had the major portion of the world's supply. It invested in foreign industries. Some day the United States may awaken to its opportunities."

This shows the trend of the minds of thoughtful men. The Honorable Reginald McKenna, former Chancellor of the Exchequer and today the President of the greatest bank in England, made an address last October before the Commercial Club of Chicago, and I quote from his address the following:

"The United States and the United Kingdom are the two richest countries in the world. They enjoy much the greatest foreign trade. We are very nearly equal in that respect. They are far and away the greatest foreign creditors. I think in the matter of being foreign creditors we are ahead of you; we are owed more than you are, taking both trade debts and war debts together. While we enjoy this wealth and this trade and this foreign debt, we have the most unemployment and we are the heaviest taxed.

"Now does it occur to any of you that there is any connection between heavy taxation and unemployment? It does to me because we suffer even more from taxation than you do, and because therefore the lesson has been brought home to us more directly and with greater weight.

"There are people who hold that if the State takes from the individual everything above what is necessary to support himself and his family in reasonable comfort, and spends all the surplus on government work, the nation is living an ideal life. I have no doubt you have people who preach that doctrine in this country, as we have in ours. It is a gigantic fallacy. They forget that the profit made in one year so far as it is not spent on unprofitable consumption becomes an increase of capital in the year ensuing, and by its use, trade year by year is increased in volume and national prosperity extends. But, if you take from industry all the surplus above what is necessary to maintain a man and his family in reasonable conditions of life, the whole of your reserves vanish. What you need for the development of your business, for the repair and extension of your plant and your machinery—all that is gone. It is spent by the state within the year and instead of being a nation with a growing industry and growing wealth, you become poorer and poorer as the years go by.

"It is a question of economic fact. Excessive taxation does not really take from the rich in so great a degree what they are accustomed to spend, as what they are accustomed to save. It takes from them what they would otherwise use in extending their business; and it is the greatest mistake to believe that a nation is benefitted by a high rate of tax and a rapidly rising scale of surtax imposed in order to absorb what is regarded as the surplus income of the great industrialist.

"We need their resources. We know that these resources are going to be saved. We know that they are resources in powerful hands which can use them to the best advantage; and we know that in the long run every man is no more than a trustee for the wealth he manages, for he cannot enjoy more than a limited amount himself. He cannot take it away with him. He builds up a great business and a great industry, and he thereby contributes to the wealth and prosperity, not merely of himself and his family, but of his whole neighborhood, of his city and of his country."

This from the acknowledged financial leader of Great Britain.

Only recently on January 26th last, Senator Edge of New Jersey, in speaking before the Industrial Club, said:

"I do not believe in the theory that Congress must 'soak the rich in order to help the poor.' This country cannot be prosperous unless it is at work, and there is no law that can be devised to compel a man to invest his time and money unless he can get a reasonable return for the risk he takes. Employment is everything * * *. The man who ought to be giving employment to thousands of men and adding to the wealth of the country, sooner than give 65 per cent. of all he makes to the Government, purchases securities and sits back to draw income from them.

"There are difficulties as great as those of the war still to be solved in this country. We do not have bands and uniforms to inspire us to the difficult tasks of peace, but the problems of peace are just as important. The happiness and prosperity of every type of American life depends on our ability to achieve co-operation and understanding."

The senator sees evidently that the only advantage of having money is the use of it in keeping labor employed and thereby the farmer prosperous. He should have said this when the present tax bill was before Congress.

If our prosperity is to continue we must spread the burden of income taxation broadly in order that the burden will not fall upon the laboring classes as it unquestionably has and will continue to do unless a change is brought about. I have spoken about our lax laws. I want to be a little personal now. It happened at one time I was in a position where I had to do with the finances of the City of Chicago. For years no cash had been paid to anybody for any class of debt. No salaries had been paid in cash. No builders had been paid in cash, no contractors, and it was dis-

covered that the reason existed because of a laxity in the law. The various corporate taxing bodies, like the City of Chicago, the Board of Education, and the various parks, never knew when they were to receive money from taxes. I took the standpoint that that would have to be changed, or else I should have to resign. I was told it had been the same for many years, and it could not be changed, as we are being told now that in a great many ways we can't change things. Well, they were changed, and we obtained an agreement from the County Treasurer to turn over his tax collections every month, and I want to pay my respects to John R. Thompson, then County Treasurer, who continued it for three years. Finally, in the course of time, we began to create interest accounts, which never had existed before; this interest resulting from the accumulation of moneys credited to the various bodies, like corporate fund, the Board of Local Improvements and the Board of Education.

While I had the co-operation of most everybody, because I asked it, there was one man, Mr. John E. Traeger, who was then the City Treasurer, elected by the people—I was appointed by the Mayor—and the ordinances conflicted with the State statutes; Mr. Traeger could have prevented the working out of that financial proposition, which was a businesslike one, because I think the statutes, as we all know, supersede the city ordinances. His attorneys advised him that he did not have to go along with me at all, but Mr. Traeger did go along. He saw the opportunity to help the City of Chicago as a whole, but if he had been a mere politician instead of a mighty sound friend of the people, he would not have done so.

As a matter of personal privilege, I want to say here that nothing would please me more than to see a man like John E. Traeger Mayor of Chicago. (Applause). Because he never looks at anything except from the standpoint of personal honesty and devotion.

Agitation brings about a great many laws, as we all know. Almost anybody, even from Chicago, can come down to the legislature and put things through to the detriment even of downstate, I am told. One of the greatest agitators the country has ever known was William J. Bryan. In 1896 he was the Democratic candidate for President. The total vote was about 13,000,000, a little over. McKinley was elected by Democrats, hard-headed Democrats, because the percentage of plurality over Bryan's vote was less than 5 per cent of the total vote. I have the figures, as you all have. About 500,000 votes, in round numbers, was the plurality, and yet that man went all over the country agitating financial ruin, repudiation of the debts of America. He did not know what he was doing. I never have heard yet the foundation of an explanation of it. He tried again at other times and failed. In that endeavor the Republicans and the hard-headed Democrats were walking the streets. I was in that procession; I did not have much hard money in those days, but I recall with the greatest pleasure being just behind another member of this Convention, Private Joe, and all along through the streets where I was in the Illinois crowd, the call of Joe, Joe, Private Joe, was heard throughout the march, so when I met the dear old character, Governor Fifer, here, I was delighted.

I am going to tell a couple of stories about Bryan, one that I saw and heard, and the other that I heard, but did not see, and will perhaps have to apologize to Mr. Bryan.

During the campaign of 1896 I went to Keith's Theatre in Boston where there was a vaudeville show, and a ventriloquist had a couple of life-sized figures. On one knee sat a colored man; on the other an Irishman. The ventriloquist said to the colored man, "Who are you going to vote for?" The reply was, "I am going to vote for McKinley, sir." "And why are you going to vote for McKinley?" "Because I am Republican, sir." To the Irishman the ventriloquist said, "Who will you vote for?" "For Bryan, sir," "And why do you vote for Bryan?" "Because I am for Free Silver, sir," "And why are you for Free Silver," he was asked, and the Irishman replied, "Because I don't understand it." (Laughter).

The other story about Bryan is this: It is said that when he was in Connecticut electioneering he asked the privilege, when in Middletown, of going

to see the insane asylum, and they invited him over. While there, he came across a fellow standing about and asked the keeper, "Is that man all right?" "Yes," was the reply. "He is not violently insane?" "No, he is a trusty." "May I talk to him?" Bryan asked. "Yes, anybody can talk to him." Bryan went up and said, "Good morning, sir." "Do you like it here?" "Yes, I like it here," the man answered. "I have been here several times; this is my third visit." "Well, you seem to be sane," Bryan said. "Yes, I think I am sane." "Well," Bryan said, "some people say I am insane." "What is your name?" "My name is Bryan." "Bryan, Bryan, I have heard that name." Bryan said to him, "I am the politician." "Oh, yes," the man replied, "You are the free silver man?" "Yes." "Well," he said, "you're not crazy; you're just a jackass." (Laughter).

The worst wheel makes the most noise.

The question of whether the people will pay their taxes gladly and agreeably if we should pass a uniform income tax law has been discussed.

How many of us have seriously considered the financial strength and power of the Catholic Church? I have the greatest respect for the Catholic Religion, and the Catholic Church is growing more powerful all the time, but what is the fundamental source of its power? It is largely financial, and its financial strength comes, not from the so-called rich, but from the multitudinous pennies, nickles, and dimes of the poor. I think it is governed by respect, because when people pay for the support of that institution or any other object, they respect it, whereas they do not respect any situation where they get something for nothing.

Events have taken place which show that the great public generally is glad to pay. During the war, in the midst of heavy demand upon our people for governmental loans, the Red Cross, Y. M. C. A. and other great works of emergency, money was needed in Chicago for our local hospitals. A tag day was instituted and nearly \$200,000 was raised on the streets through the depositing by the public of pennies, nickels and dimes, and every person seemed proud to wear a tag signifying that he had been a glad contributor. Our people, as a rule, have great and bountiful hearts. They will gladly be contributing citizens in the up-building of their country, if we here and now having the opportunity will but show the way.

That the people are not only willing but delighted to pay if properly approached is shown in the case of the Cleveland Community Fund. This endeavor was started during the war and was then known as the War Chest established with the idea of having everybody pay into one fund to be distributed amongst the various war charities then active. It went so well that it has been continued in Cleveland under the title of the Cleveland Community Fund now organized for charity work.

When the War Chest was first started there were 6,000 subscribers. In the year 1920 there was collected for charitable purposes by the Cleveland Community Fund \$4,176,524. The subscribers numbered 145,228, these contributors being of record. The total contributors, however, were 209,595. But let us take the contributors of record, 145,000. This is about 20 per cent of Cleveland's population. Suppose we apply Cleveland's methods to Cook County, four times as large as Cleveland; if it did as well in proportion as Cleveland, then 20 per cent of Cook County's population would have put into the charity fund over \$16,000,000, whereas the personal property tax collected in Cook County in 1919 from all the people was \$19,000,000.

If we apply the same ratio to the State of Illinois, it would show that 20 per cent of the people of this state would have put into the charity chest over \$32,000,000. The State treasurer's office reports that the personal property tax collected in this state in 1919 is \$41,805,927 from all of the people. If one-fifth of our people paid out as much for charity alone as 20 per cent of the people of Cleveland did, they would have paid for that charity three-fourths as much as all of our people paid in personal property taxes. It shows that when the people are properly approached, they will be glad to pay.

Let us recall what the farmers of Iowa did during the war. When subscriptions to Liberty Bonds, Red Cross and Y. M. C. A. and all other war funds became necessary, that work was allocated by the Treasury Department to the several Federal Reserve Districts. The State of Iowa is in the Seventh Federal Reserve District, Chicago being the center. The people of Iowa so organized the state that all the people in the state were made acquainted with the situation very easily. Through a business organization they placed everyone upon the same level, and it soon became known that Iowa's quota was raised so quickly as to cause not only comment, but wonder. I happened to be present at a meeting when the chief of Iowa's organization was told that the drive for the Victory Loan was to take place the following week. He asked for the quota of Iowa, and upon receiving the figure, he made this remark: "I shall telegraph you Monday night," and the following Monday night we received the following despatch from him: "Iowa's quota is raised." This was all done in one day, where the quotas from other communities sometimes required weeks. It was the result of publicity and organization having for its foundation the principle of uniformity, that all should be on the same basis and that all should be treated alike, so that the farmers of Iowa not only became proud to buy Liberty Bonds and to give away their money to war endeavors, but stood at the head of all communities in America, and they were proud of it. No doubt the farmers everywhere would have done the same thing, but the organization in Iowa appealed to the farmers in that state upon the principle of fairness and uniformity, and the success was apparent.

In 1920 I made some statements to friends in this Convention as to what I thought an income tax of one per cent uniformly paid would produce in Cook County. The figures were thought to be rather extravagant, so with the help of several others we made an investigation of five or six weeks and became convinced that a tax of one per cent upon everybody, one per cent of incomes in Cook County, would have yielded much more than the entire personal property tax of the latest year's collection up to that time, which was about \$16,000,000. We were convinced one per cent tax in 1919 would have produced \$30,000,000. The collection in 1919 was \$19,000,000. The investigation included salaries of everybody, errand boys, stenographers, scrub-women, etc. I have heard people say that it will be a hardship, for instance, to call upon a man of large family, working for \$1,000 a year to pay \$10 or one per cent income tax. My answer to that is, as I think we all know, it is the men and women of large family who are the provident citizens of our state and country. It is they who usually bring up their children in the ways they should go. It is the men and women without children to whom we have to look as a rule for the indifferent. I have in mind one of the greatest men the world has ever brought out, the man whose statue adorns the entrance to the grounds upon which this State house stands, and I think of the struggles of the large families of himself and his ancestors who settled in Hingham, Massachusetts, in 1645, and I am also reminded of his mother, the wonderful Mary Hanks, and the struggles of her ancestors who settled at Plymouth, Massachusetts, in 1699. Large families meant something in those days and I believe they do today.

Our Revenue Committee has gone far and has made a progressive step, but their income tax article provides for graduation and progression, which I think is dangerous. Once in our Constitution, amendments are possible for still further graduation and progression; also the discrimination is not only unjust, but will cause much indignation and a large sum for state examination. What about the unmarried person whose income is \$450 or \$550? What about the married man whose income is \$950 or \$1,050, etc.?

The recent income tax provision in the State of New York provided that a state income tax payment of 3 per cent, should be the limit, but I have in my files editorials from the New York Sun and Tribune, Republican papers, reciting after the first year's operation of that tax that it brought in too much money and fears of extravagance were entertained. So we cannot go too carefully into this situation.

Gentlemen, I was talking with a farmer yesterday about the situation in the United States and about the education of families and what our duties

should be. It is the wish and desire of every man, particularly a man who has reached the position where he can send his boys to the high-schools and colleges and give them an education, and to give his daughters the same privilege, to do so. Somehow, the sense of responsibility seems to be slipping away. The farmer sends his boys to college, and his girls to school, they get a taste of city life; they do not seem to take the same interest in the old homes and the old associations. The city men and women having children do the same thing. Their boys go to college and their girls to schools, we will say, in the East. Somehow, they seem to be weaned away from the old homes. They become extravagant. They get a notion that they do not want to work; that there is some easier way to make a living.

Therefore it is rather on my conscience that this Convention has before it a great duty, but a greater opportunity. It is convening in the most serious economic time that the world has ever known, and we should aim at the base of returning prosperity, not only for ourselves but for the world.

Let us tell the people of our State, all of them that they individually are responsible factors and must do their individual duty to the state.

Our foreign trade sometime ago was four per cent of our total business. Men have said that that was negligible; that we could lose it; that it would not hurt much. I never have taken that view, because I have noticed that in the case of men doing large businesses, where the volume runs from \$500,000,000 to \$1,000,000,000, as it sometimes has in Chicago in the packing interests, a difference of one-half of one per cent is often the difference between profit and loss. If you will read the reports of those interests, and note them carefully, you can see how little it takes—what a small percentage will turn the profit into the red ink account.

During the war, our foreign trade grew to where it was fifteen per cent of our total business. It was back last year to about ten per cent. Fifty-three per cent, of our exports I think, is the figure representing manufactured articles, manufactured articles that we had sent abroad. Formerly most of our trade abroad was in things the farmers raised, so that we are linked up with the farmer and industry in a way that we can't escape if we wish to go on as we were before the war. Therefore I think this Convention has a duty which I hope it will not miss. It can do something here that will make every Delegate proud that he had a part in it. I do not like to say that it takes courage to do a great economic thing which will be the fore-runner of the return of prosperity to this country. I don't believe it does. I believe you men will see it and set a record now for the rest of the country and the rest of the world. Get down to uniformity in your income taxation.

I know that Mr. Gale (Knox), the Chairman of your Committee, not only has the respect of his city, but of the State. I saw recently several men from Galesburg who voiced this sentiment, and I have read the accounts of what he has done. He has devoted his time and his money since the last discussion of our revenue laws, but we have an opportunity here to place ourselves in the forefront of the nation where we will be followed by every State in the Union, and we will be followed by the United States government. There is no escape from it; it has got to come, and we will stand out as having led the country.

Speaking in a national sense, our excessive income tax provisions have brought about many disastrous results. There are firms who are well known who are not able to pay the taxes of last year. Evidently disaster stares them in the face. We are yet to see the worst effects of hasty legislation in taxation and the results will fall heavily upon our laboring classes, because when the employers cannot progress, the employees are out of work.

EXPENSES OF COLLECTING GRADUATED INCOME TAX.

Investigations have been made regarding the expenses of collecting the Federal Income Tax. In several cases the Government agents worked in one office three weeks each on returns of 1917, 1918 and 1919. This is equivalent, of course, to two men a week each on one examination, meaning

that one man worked two weeks upon each year's return, thus reducing the equation to one man making twenty-six returns a year. Suppose we deduct one week for holidays, with no vacations, allowing that man 25 returns per year. His salary is \$2,500. That means that the examination of each return cost \$100. The last figures available, 1919, show tax returns to the Government of \$5,332,760. At a cost of \$100 for each return, the cost for this inspection alone would be \$533,276,000. Supposing a man made 50 examinations a year, then the cost would be \$267,136,000. Suppose a man performed the impossible task of making 100 examinations a year, and how could one man do this if he examined all the books, checks and vouchers in each office? Then the cost of examination alone would be \$133,586,000. Even this rapid work would require in the field 53,325 men. As a matter of fact, the Government employs only about 1,000 men in the field, and the reports of the fiscal year ended June 30, 1921, show the field agents' expenses as follows:

Agents' clerks	\$ 404,000
Traveling expenses	1,113,000
Rent	53,000
Telephone and Telegraph	9,787
Supplies and Equipment	23,000

\$1,601,787

This shows an expense account outside of salaries for the present field agent of \$1,601,787. If enough men were employed in the field to examine every return, and if a few are to be examined, I don't know why all should not be, then the expenses alone, outside of salaries, would be \$50,000,000. This means, upon the lowest calculation, with the swiftest kind of expert work, it would cost the Government \$195,000,000 for field examinations alone if all were treated alike. The public knows this, and therefore thousands upon thousands, not to say millions of people, do not make returns. They take the chance, and why shouldn't they? They have discovered that the Government in its examinations has so far only hit the high spots, meaning that only the larger returns have been examined. With the Government's present force of field agents, if all were treated alike in the field examinations, it would take twenty-five years to examine one year's returns.

The Government report also shows that during the fiscal year 1921 income and excess profit tax returns examined in Washington were \$1,570,000. It took 5,376 men to do this. If all the returns had been examined that year, it therefore would have taken 23,504 men to make the examination, and at the low salary of \$1,500 per year, this alone would have cost the Government \$35,250,000, or more than the entire appropriation for all the expenses of the Income Tax Unit of the Internal Revenue Department, that appropriation having been \$33,000,000. It would have left no money for expenses of any kind in Washington and none for the expenses of 64 agencies of the Department throughout the United States.

The Government reserves five years during which income and excess profit tax returns may be examined. I have it on good authority that through departmental audit the Government expects to collect one billion dollars additional taxes for the year 1918 alone, owing to so-called errors in making returns. What a situation this presents! If the Government is right in that calculation, then after a man is dead or his firm goes out of business, or he perhaps has lost his fortune, the Government in tardy fashion comes along with a claim of many thousand dollars against him. If the Government is right in the claim, then the Government has been wrong and deficient in its tardiness in notifying the taxpayer of its claim.

The whole situation shows, first, a determination on the part of the Federal Government to get all it probably can of the surplus earnings of successful and provident individuals and corporations, and then to take its own time in making claims upon such if it chooses to do so. What is the result? A feeling not only that discrimination exists, but one of despair because of the discrimination and decided uncertainty as to the future. Individuals, firms and corporations are drawing in. If successful in the

past, they are guarding against the future, taking the position that there is no inducement to make any profits over and above what may be needed to keep their interests alive. Ambition, incentive and initiative are gone, and thus in a large measure the essentials of the business man's character have been so stunned that he is a changed individual. What is the result of this? Curtailment and economy all along the line, meaning not only the cutting of salaries, but the discharge of labor, and why shouldn't it be so? It is only natural.

The expense to the State of collecting a uniform income tax which should be in lieu of all other personal property taxation would be negligible. On employees' salaries and wages it could be collected at the source without any expense to the State. Others in receipt of incomes would be constantly on the watch and would see to it that everybody else paid. This would not only bring in many times more money than has ever been paid into the State from personal property taxes, but would result in having a happier and more prosperous and more contented citizenry, each on the same footing with the other and each taking far more interest in the affairs of State.

I have referred to Tag Days, so-called. Supposing every one everywhere in this country paid a uniform tax upon their incomes and supposing the United States Government should provide a simple button to be worn by the people everywhere during the days the income taxes are to be collected? Wouldn't it be an inspiring sight to see every man and woman wearing such a sign, a sign of pride and devotion to their country and an honor to be one of its citizens? Why, the man who didn't wear such a tag would be hunting the alleys for a place to hide!

We had a debate one day upon compulsory voting. I was intensely interested, particularly in the eloquence of my friend and colleague, Mr. Dawes. I could hardly help voting "aye," but I thought there was a better way, viz: Let the people pay for the great privileges given them by this country. Then they will be quite sure to vote. *Humanity seldom respects that for which it pays nothing.*

We have some great leaders in our capital of whom we are proud.

There recently occurred in Washington two great events, epochs in our history, one last summer when the President of the United States appeared with his cabinet and five hundred others at a meeting called by General Dawes, the Director of the Budget. Do the annals of our country show in the last one hundred years any other President and his cabinet attending a meeting to be addressed by a presidential appointee upon their duties in economizing in the functional expenses of government? It not only showed courage in our President, but a devotion of high order to our people. Another such meeting on the progress of that work was held last week.

At the first meeting of the Disarmament Conference in Washington, the world was startled and dumbfounded by the offer of Secretary Hughes to junk hundreds of millions of our naval construction in order to take the first great and fundamental step to return peace to the world. We do not realize that, notwithstanding the world war, it was the greatest event in our history since our own Civil War, and what wonderful courage on the part of the President of the United States!

One citizen, referring to this great disarmament event when Secretary Hughes laid the cards of America on the table, said that we were "junking the bunk." Now, let us here junk the bunk relating to our personal property taxes. Let us stop taxing dead stuff over and over every year. Let us stop taxing the woman's washing machine, her daughter's Victrola, the farmer's hayrack, his mowing machines and his other stock in trade. Should the farmer's horses be taxed? They should not; they are but implements of his trade; so are his milch cows, God-given food producers, but the farmer's stock in trade nevertheless. Tax what they produce in income, but don't tax the tools. Let's get right down to uniformity, as we have always done in real estate. What is that building worth which brings in \$3,000 rent—\$50,000. What is that man worth who brings in \$900 a year?—\$15,000, based upon his productive power. What

is that man worth who receives \$3,000? He is a \$50,000 man, and would be glad to pay 1-50th or 1-100th part of his income in lieu of all other personal property taxes for the benefit of the State.

This Convention assembled in the most serious economic time in the world's history has an opportunity to do a forward thing which will mark an era in this country's development, to provide an economic law which will keep people in employment and preserve prosperity. It has the opportunity not only to point the way out of our financial difficulties, but to show to every wage-earner that this Convention realizes that unequal and excessive taxation only leads to mercantile disaster. It can show to our people that only a small part of what they expend upon useless and unnecessary objects if paid to the Government in taxes will become a solid financial foundation for our economic structure of the future. It will return them to employment at fair wages, which, of course, will give the farmer fair prices for his crops, because it will release by the hundreds of millions capital now going into dead issues because of excess taxation. Let this State show that a uniform income tax is in the interest of the people, where the present federal method has been destructive to the people.

I believe in our people. I think they are the most generous, whole-souled, biggest hearted people in the world, but they are being misled. I do not like to admit that it takes courage on our part to tell the people what they ought to do.

It has been said that if this Convention should adopt an income tax law demanding a uniform rate without exemptions and without progression or graduation, it would not be endorsed by the people of the State. I do not believe that. I believe people are beginning to have a better understanding of the situation. If not, I believe it is our duty to show them. However, we are not now here to legislate with the idea of meeting approval at the polls. We are here to establish fundamental law which we believe to be right and we have not any business to consider whether the people will approve or not. Such a thought brings a fear of the people, whereas we should have our own strength within ourselves. Supposing, as Delegates, we are right in framing this Constitution, and suppose then that the people of the State do not adopt it. We then are not defeated, though the Constitution may be. We are right, and the man who is right is seldom defeated in the end. The man who is right is stronger in death than the wrong man living.

Gentlemen, I thank you. (Applause).

THE PRESIDENT. Are there any further remarks?

MR. GALE (Knox). Mr. President.

THE PRESIDENT. The Delegate from Knox, Mr. Gale.

MR. GALE (Knox). In view of the suggestions made this morning and a suggestion made to me by a number of the delegates here I desire to offer a substitute for article 9, section 1, and ask that the secretary read the same.

THE PRESIDENT. The gentleman from Knox offers a substitute for article 9, section 1. The secretary will please read the substitute.

THE SECRETARY. (Reading): "Article 9, section 1. The power of taxation shall never be surrendered, suspended nor contracted away. Taxes shall be levied and collected only under general laws and for public purposes. No income taxes shall be levied, except at a uniform rate with exemption of not less than five hundred dollars (\$500.00), nor more than two thousand dollars (\$2,000.00) of annual income to any one person or corporation."

THE PRESIDENT. The question is upon the adoption of the substitute offered by the delegate from Knox.

MR. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

MR. GALE (Knox). From time to time I have occupied the time of this Convention so much that I am not going to take many minutes of your time now. I merely want to explain what I think this means. I have not altogether given up my ideas of a graduated and progressive income tax. Although I have listened with a great deal of attention to the address of the

delegate from Cook, and it has made a good deal of impression upon me, I do see the argument in favor of a uniform tax, particularly in view of the graduated tax of the Federal Government, I still feel that there should be an exemption from income taxes, and I think that exemption should be left largely to the legislature, as I believe that practically all of the revenue matters should be left largely to the legislature.

This section which I have offered possibly, since it prevents a graduated and progressive tax, does not altogether meet the views which I have heard expressed. Nevertheless, as I say, I can see the argument for it, and I believe it would be an enormous advance over anything else that has so far been presented here. Of course it would leave the legislature free to do all of the things suggested by the delegate from Cook. They might levy an income tax, under this provision, on the income from intangibles in lieu of any other tax thereon, or on income from any other personal property in lieu of any other tax thereon, or they could levy an income tax in lieu of all taxes and raise the entire revenue in that way if they saw fit. Unquestionably they could levy a real estate tax and an income tax in lieu of any other tax on personal property of any sort or kind.

I do not share the fear of leaving the revenue section open to the legislature that some delegates seem to have, nor the fear which they have in leaving other articles open to the legislature, and for this reason: vested rights are not obtained under taxing laws. Under many sections of the Constitution, if the legislature be that free and passes certain law, vested rights are then obtained which then cannot be done away with no matter how harmful they may be to the State. In revenue matters this is not true. The revenue law which is passed today may be undone at the next session of the legislature.

I hope, Mr. President, whatever may be done, whether this section that I now offer as a substitute be adopted, whether it be amended or whether something entirely different be adopted, I do hope that the principle be not lost sight of by this Convention and that we may go on record as saying that we are determined to elect a legislature which can be trusted in revenue matters and to give us a system which will produce results, with justice and fairness to all, which justice and fairness cannot be obtained under the uniform ad valorem tax, if that be imposed upon the legislature as a Constitutional requirement. It will give to the legislature the opportunity to give to us a real revenue system under which business and the State can prosper.

Mr. DUNLAP (Champaign). Mr. Chairman, I would like to ask the delegate a question.

THE PRESIDENT. Does the gentleman yield?

Mr. GALE (Knox). Certainly.

THE PRESIDENT. The gentleman from Champaign, Mr. Dunlap.

Mr. DUNLAP (Champaign). I haven't the amendment before me, but does this amendment provide that no tax can be levied except a uniform tax upon incomes?

Mr. GALE (Knox). Yes, sir.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. GALE (Knox). Possibly I did not understand. No income tax except at a uniform rate.

Mr. HAMILL (Cook). I desire to ask the gentleman a question. Your amendment contains these words: "With exemption of not less than five hundred dollars, nor more than two thousand dollars." That would prevent the General Assembly from passing a law with no exemption, would it not?

Mr. GALE (Knox). I think it would.

Mr. HAMILL (Cook). Mr. President, I desire to be informed upon the procedure. I take it the present motion is that the section as offered by the gentleman from Knox shall be substituted for the section as it appears in the report of the Committee on Phraseology and Style.

THE PRESIDENT. Section 1 of the report of the Committee on Phraseology and Style.

Mr. HAMILL (Cook). The first motion will be merely as to whether or not this shall be substituted. If it should be carried this section that is offered would still be open to debate and would have to be debated. The present motion that this be substituted for section 1 of the report of the Committee on Phraseology and Style would not adopt this section, I take it.

THE PRESIDENT. Under the rule as adopted by the convention this morning——

Mr. HAMILL (Cook). I am merely asking for information, because I shall desire to offer an amendment to this in due season, after the motion of the gentleman from Knox has been carried. If the chair rules otherwise I should like to offer an amendment.

THE PRESIDENT. Under the rule which was adopted this morning, as the chair understands it, section 1 of the report of the Committee on Phraseology and Style was before the Convention for consideration and debate, together with three other sections of that report. The report of the Committee on Rules further provided that these sections should be considered together, debated together, but final action on second reading should be taken upon them separately. This being offered as a substitute for section 1 it is the view of the chair that an affirmative vote on section 1, or substitute offered, would be a final vote upon that section. The chair may be in error.

Mr. HAMILL (Cook). Then, Mr. President, I desire to move that there should be stricken out of the section as submitted by the gentleman from Knox as a substitute the words "less than five hundred dollars nor," so that the last sentence of the section will read: "No income taxes shall be levied, except at a uniform rate with exemption of not more than two thousand dollars of annual income of any one person or corporation."

The purpose of my motion is to leave it with the General Assembly to say whether there shall be any, and merely prohibiting their making a greater exemption than two thousand dollars.

THE PRESIDENT. The delegate from Cook, Mr. Hamill, offers the amendment which has been stated by him by striking out the words in the last sentence "not less than five hundred dollars"——

Mr. HAMILL (Cook). The word "not" stands. Strike out the words "less than five hundred dollars nor."

THE PRESIDENT. "Less than five hundred dollars nor," and the question is upon the adoption of the amendment to the substitute, offered by the delegate from Cook. Are there any remarks?

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). If it is permissible under the rules, I will accept that amendment and offer the substitute with those words stricken out. I don't know whether under the rules that can be done or not.

Mr. HULL (Cook). I think, Mr. President, if there is an objection it cannot be done. At all events I would like to make a statement on that point, and upon the point of the amendment, for the information of this Convention before we take this step which it seems to me may be fraught with serious obstructions in connection with the vote on ratification.

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). If I may speak to the motion of the delegate from Cook, Mr. Hamill. I trust that this amendment will not prevail. If we were not going to say anything about exemption and were to leave it in the hands of the General Assembly I should not object at all, but as long as we are saying that there shall not be an exemption of more than two thousand dollars we are suggesting a definite amount in the minds of the voter, and we are suggesting also that there may be no exemption at all. Gentlemen from the state of New Hampshire, including their Attorney General, their former Governor, Governor Brown, formerly President of the

State Tax Commission, tells me that their revenue article submitted by the Constitutional Convention providing for an income tax met defeat at the hands of the voters very largely because they were of the opinion that no reasonable exemption would be allowed.

Now I think that is a matter that we have to take into consideration. I believe in very low exemption. I believe the exigencies of revenue in the end will largely govern that, but I don't think it is wise to take out a minimum when you state a maximum. Therefore I hope the motion will not prevail.

THE PRESIDENT. Are there any further remarks?

Mr. HULL (Cook). I rise as a matter of information. This section has got to be considered in connection with the other section do I understand?

Mr. GALE (Knox). I believe we have to vote on these section by section.

Mr. HULL (Cook). I understand we have to vote section by section, but if this amendment should be adopted what would be the policy of the proponent of this amendment with reference to the succeeding section?

Mr. GALE (Knox). I shall offer, and I have prepared, but I have not had copies of them made, because I did not know, of course, whether this would be adopted or not, otherwise they would be prepared, but I have prepared a section 2 and a section 3 to take the place of sections 2, 3 and 4 of the report of the Committee on Phraseology and Style, which are consistent with and consonant with this section 1 I have offered.

Mr. HULL (Cook). I think that they would have to be considered together, as I read this amendment. If we should adopt it and if we should vote down succeeding sections it would mean that we would simply be leaving to the legislature the entire power, unrestricted, to pass any kind of revenue laws, and that may be the purpose of the gentleman who is proposing this amendment, except that he is putting a limitation in this amendment that any income tax law shall be a uniform law. Is that the purpose of the proponent's amendment?

Mr. GALE (Knox). Substantially, because section 2 which I propose to offer is a mere substitute for section 4 of the report of the Committee on Phraseology and Style, which you will find in the second column on page 59, and a section 3 which I propose to offer in lieu of section 2 of the Phraseology and Style Committee's report which you will find on page 60, which I would change by inserting the words "not for profit" and before the word "exclusively."

Mr. HULL (Cook). Then if I understand the purpose of this amendment it is that the policy it proposes is a wide-open and unrestricted reference to the legislature of the power of taxation, except in so far as it is limited, first, in connection with income taxes that they must be uniform, and, second, so far as it is limited by succeeding sections with reference to exemptions, is that correct?

Mr. GALE (Knox). I did not quite get what you said.

Mr. HULL (Cook). I say as I understand this substitute now offered, it is that the proponent of this substitute believes that the legislature should be given practically unrestricted powers of taxation except so far as they are limited here with reference to income taxes, namely, that such income tax as the legislature may provide for shall be uniform, and except also as there are further limitations here with reference to exemptions in succeeding sections, and as to the method of collecting and distributing the income tax.

Mr. GALE (Knox). Yes, Senator.

Mr. HULL (Cook). It is a complete change of front with reference to the powers permitted to the legislature in taxation heretofore from the original report of the Revenue Committee. I am not sure that I would not agree with you, but I just want to get the whole thing clear.

Mr. GALE (Knox). Yes, Senator.

Mr. HULL (Cook). I just want to get the whole thing together so that I understand what it means.

Mr. GALE (Knox). Yes, sir, I think you are right in your understanding.

Mr. LINDLY (Bond). Mr. Chairman, I rise to a point of order.

THE PRESIDENT. The gentleman from Bond, Mr. Lindly.

Mr. LINDLY (Bond). The gentleman's amendment to a substitute is out of order. In the early history of this Convention a motion was made here to amend the substitute and the gentleman from Cook took up the question and rose to a point of order and said it is not in order, and produced on the floor of this Convention quite a lot of authorities to prove that he was correct, that a substitute could not be amended and the chair held with him, and unless he has retracted from his position at that time his motion is out of order.

Mr. GREEN (Champaign). Mr. President, may I suggest that at that time, as decided by the chair, the same rules obtained in the House of Representatives as would apply here, which allows one amendment to the substitute.

Mr. LINDLY (Bond). That was the position that I took, that under the rules of order an amendment could be amended once, but it should be treated as an amendment, and as I remember very distinctly the ruling of the chair was, under the statement of the gentleman from Cook, that you could not offer any amendment to the substitute. I would like to have that settled. I believe you can amend the substitute, but I want his position to be consistent.

Mr. DUNLAP (Champaign). Mr. President.

THE PRESIDENT. Mr. Dunlap.

Mr. DUNLAP (Champaign). I do not agree with the statement that only one amendment can be offered to a substitute. I believe that that ought to be qualified by the statement that only one amendment can be offered at a time.

Mr. GREEN (Champaign). That is what I mean.

Mr. HAMILL (Cook). The incident to which the gentleman from Bond refers occurred while we were in a Committee of the Whole and the present President was not then in the chair. It is true that I at one time raised the question whether in a Committee of the Whole a substitute could be amended. According to the theory of parliamentary law a substitute is merely an amendment. Works on parliamentary law do not deal with substitutes at all. When the gentleman from Knox offers this section as a substitute to section 1 of the report of the Committee on Phraseology and Style he merely moves that that section as reported should be amended so as to read as follows. That is the effect of the motion.

Now the general rule of parliamentary law is as stated by my friend from Bond, that an amendment to an amendment is not in order. However, by the rules of the House of Representatives it is provided that there may be offered at one time an amendment to an amendment, and for the greater part of our deliberations in the Committee of the Whole that has been the procedure which we have adopted. It is true, I think, that the rulings of the chairman of the Committee of the Whole have not been uniform, and it is true that on one occasion I did raise the point of order. However we proceeded on the motion on the theory that one amendment to an amendment is in order. I think I have correctly stated the rules of law and the history of the situation.

Mr. LINDLY (Bond). The only difference between that statement and what I made was that my recollection is that the question was on the substitute. This wasn't offered as an amendment, this was offered as a substitute.

Mr. HAMILL (Cook). As I said, Judge, there is no such thing in parliamentary law as a substitute. A substitute is an amendment.

Mr. LINDLY (Bond). If the gentleman takes the same position that I did at that time and retracts from the position he took I am satisfied.

THE PRESIDENT. The chair will rule the amendment is in order.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). I do not rise to address myself to the merits of the question. Gentlemen, as a matter of procedure may we agree on the soundness of this policy. The biggest economic question before this Convention of course is revenue. There are fifty-seven lawyers in this Convention, and as lawyers we will all admit that the only way we will get anywhere is to get these matters to an issue, where they are affirmed on the one side and denied on the other, or disputed on the other, and there are so many questions involved in the consideration of the article on revenue that it will surely be fortunate if we may have these considered one at a time. We have here presented a single concrete question for issue, namely, is this Convention favorable to eliminating the provision for a minimum exemption on income taxes. Now that is the issue, and if we may have that thoroughly debated and disposed of, if it is carried then the substitute is open for further amendment, and one at a time we may settle finally upon what we determine.

Now in speaking to the merits of the question, will it not be extremely fortunate, in the light of this material discussion which we have heard and which was directed against the Convention going on record for any exemptions in income taxes, that we may have the fullest and freest debate on that single issue.

Mr. NICHOLS (Ogle). Mr. President, may I ask the gentleman a question?

THE PRESIDENT. Does the gentleman yield?

Mr. GREEN (Champaign). Certainly.

Mr. NICHOLS (Ogle). Isn't the further issue presented by this substitute whether or not the legislature shall have absolute control over tax matters without any limitation?

Mr. GREEN (Champaign). I evidently did not make myself clear. That substitute as a substitute is not before the Convention for vote on the pending question, which is the amendment. If the amendment carries it does not carry the substitute, so that the merits of all the questions involved in the substitute are not necessary to be considered or determined at this time, and it is fortunate, it would seem, that we can have this single issue presented for determination.

Mr. WILSON (Cook). Mr. President.

THE PRESIDENT. Mr. Wilson.

Mr. WILSON (Cook). I think I have stated that I had an amendment that I would like to offer in writing. I would like to have an opportunity at the proper time, as I said, to offer this amendment. I don't know when that time may mean, but I do not want to miss it.

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. Mr. Hamill.

Mr. HAMILL (Cook). I want to say only a word in support of my motion. I take it that the parliamentary question is now clear. The only question we are discussing is whether this simple amendment I have offered shall be adopted. My amendment involves one simple question, of whether we shall compel the general assembly to make an exemption of five hundred dollars from any income tax that the General Assembly may impose.

I listened, as the rest of you did, with rapt attention to the very masterful address made by my colleague from Cook, Mr. Wilson, this morning and this afternoon. The mass of detail information which he gave us made on my mind a deep impression. I am not prepared at this moment to commit myself to his thesis that there should never be any exemption. I am prepared to say that we should not, in the Constitution, require an exemption. I surmise that when the General Assembly comes to draft a revenue law with an income tax provision that it will probably find it wise and expedient to make some exemption, but I would not compel them so to do. The situation may be such that in the exercise of its wisdom the General Assembly

may feel that there should be no exemption, and if that time does come then, in my opinion, it should be free to act.

Remember, my friends, we are now legislating in large terms for a long time. No one of us can be wise enough to tell what the future has in store. No one of us can tell what may be the requirements of the State in the matter of revenue at some given time some twenty years from now. Let us leave this particular phase to the General Assembly which is freshly elected by the people to respond to what they believe the people will require.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook?

Mr. GRAY (Adams). Mr. President.

THE PRESIDENT. The delegate from Adams, Mr. Gray.

Mr. GRAY (Adams). I do not know that I thoroughly understand the import of the motion which is now pending, but I wish to express myself on the exemption question in an income tax. I believe it would be class legislation. I believe that no income should be exempted from taxation. If any income is to be taxed at all, if it is to be made the basis of taxation then I think there should be no exemption. I think this would be fair to all classes of our citizenry through all parts of the State, and that is a subject that should receive the earnest attention of all the people of the State together, to vote upon the subject whether there has been discrimination in regard to the subject of taxation or not. I should certainly oppose any amendment that will have in it the quality of an exemption from taxation.

Mr. HAMILL (Cook). Mr. President, the gentleman has evidently misunderstood my motion. My motion is entirely consistent with your theory, Mr. Gray. My motion is to remove the necessity of creating the exemption.

Mr. GRAY (Adams). Why the two thousand dollar clause?

Mr. HAMILL (Cook). That is not now before us, sir. The mere question now before us is to eliminate the requirement, to create an exemption of five hundred, then we will take up the other matter later.

Mr. GRAY (Adams). I am with you on that.

Mr. HAMILL (Cook). I thought you were.

Mr. DUNLAP (Champaign). Mr. President.

THE PRESIDENT. The gentleman from Champaign, Mr. Dunlap.

Mr. DUNLAP (Champaign). I do not know that I differ so very materially from my friend Delegate Hamill here as to his object in striking out the five hundred dollar minimum limitation, but I want to be understood as being opposed to that. Not that it is a limitation upon the General Assembly, not for that reason, but because I think the sentiment among some of the delegates to this Convention is a misconception as to what constitutes an income. Now the delegate from Chicago, Mr. Wilson, gave us a very interesting address. I listened with great interest to it. The facts that he brought out there shows a great research into the question of levying and collection of taxes, but there are some deductions that he made that I cannot agree with, and one of those is this: He made the statement that every citizen of this government ought to be willing to contribute to the maintenance of the government that protects him and should pay taxes accordingly. Well, I agree with that so far as it goes, but it doesn't go far enough. Every citizen of this government should pay taxes according to his ability to pay, and that is quite a different proposition. Now to provide that an exemption of five hundred or a thousand dollars should not be made, and that is exempting a man from his legitimate duty to the government, I do not agree with that statement at all.

There is a certain amount of income, if you are going to put it in the way of income, that a man must have to a subsistence for himself and his family, and when you take away from him a dollar of that necessary amount you are taking away from him not his income but his subsistence. There is a very substantial difference in my mind between the ability to pay of that man and a man that is deriving an income of ten thousand dollars or a hundred thousand dollars.

The theory of government is, as I understand it, in the matter of taxation, that a man should pay according to his ability to pay. The taxes are levied and collected with that in view. Of course economists differ as to just what that ability to pay is. Some think that it is in the possession of property that is worth a value and other economists think that it ought to be relegated entirely to real estate and not to personal property, and some to income, and so they all have very different ideas.

This matter that we have before us now is leading up to the proposition of a uniform income tax, and that is where the real crux of this question is, whether we will have a progressive income tax, what may be progressive to be determined by the legislature, or whether we will prevent the legislature from determining that there shall be a progressive income tax.

I take it that if we adopt the substitute amendment offered by the delegate from Knox that we will prohibit and prevent the legislature from enacting a progressive income tax law, and for that reason I am opposed to the substitute.

Mr. HAMILL (Cook). Mr. President, I rise to a point of order. The gentleman is not addressing himself to the motion before the house.

Mr. DUNLAP (Champaign). Well, I will not carry that out to any great extent right now. May I proceed, Mr. President?

THE PRESIDENT. You may proceed.

Mr. DUNLAP (Champaign). I want to call the attention of the members here to what the final thing is that we are getting at. We are speaking about a minor proposition right now that doesn't amount to a very great deal, because that is in the power of the legislature, even under the amendment of the delegate from Cook, to put on an exemption there from one dollar up to two thousand dollars, but while we are discussing that proposition let us understand what that five hundred dollars is and how trivial that is as compared with the main proposition.

I don't think it makes any difference whether that amendment is adopted or not. I don't think that makes a particle of difference in the action of the legislature or any other body of men that would have authority to pass upon it. So that is not the question that will come up for decision.

I want to say that so far as I am concerned I shall vote against the gentleman's amendment, because there ought to be at least that much exemption made. But I am not caring very much whether it is incorporated or not. It is the main question that I am interested in.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook?

Mr. RINAKER (Macoupin). Mr. President.

THE PRESIDENT. The delegate from Macoupin, Mr. Rinaker.

Mr. RINAKER (Macoupin). I do not know whether I fully understand the amendment that is offered here. Is the thing that is sought to be done simply to avoid the compulsory fixing of the five hundred as a minimum?

Mr. HAMILL (Cook). The section as presented by the delegate from Knox would require the General Assembly, in passing an income tax law, to make an exemption of at least five hundred dollars. My amendment would eliminate that requirement and it would be possible for the General Assembly to pass a law with no exemption.

Mr. RINAKER (Macoupin). Would it under this language?

Mr. HAMILL (Cook). I recognize, Mr. Rinaker, that under that wording it is a little equivocal. I had in mind to suggest it afterwards, after the vote upon the substance, that this section does require an exemption of at least five hundred dollars, and carrying my amendment would do away with that requirement. I agree the wording is a little equivocal and would need to be amended in order to make it clear.

Mr. RINAKER (Macoupin). I simply wanted to make that point, that the language stricken out as proposed by this amendment would still make it compulsory on the legislature to have some exemption, as it is written, the language being "except at a uniform rate, with exemption of not more than two thousand dollars."

Mr. HAMILL (Cook). The minimum exemption might be one dollar.

Mr. RINAKER (Macoupin). It might be one dollar, yes.

Mr. HAMILL (Cook). I think it might clear it up a little. My theory is to get the consent of this Convention, whether they would require the General Assembly to make any exemption.

Mr. RINAKER (Macoupin). It seems to me that we are discussing an unimportant question here, instead of first determining whether or not it shall be, as suggested by the gentleman from Chicago, Mr. Wilson, without exemption, and I think the wisest course would be if the gentleman would withdraw his motion and let the other motion be made first, and determine the question whether or not there shall be an exemption or a tax without exemption.

Mr. HAMILL (Cook). I think we could get at the question more quickly this way.

Mr. RINAKER (Macoupin). It seems to me that we are discussing incidental questions instead of disposing of the principal question.

THE PRESIDENT. Are there any further remarks?

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. Mr. Green.

Mr. GREEN (Champaign). The delegate who suggested this general policy or scheme in the address referred to has given notice that he is about to offer an amendment to the substitute pending which would cover a great deal more territory than this, which, of course, I assume would be recognized as next in order. Now it might make some difference with him in framing his proposed amendment if the Convention has declared itself as to whether or not it would require in any event a minimum exemption of five hundred dollars, and therefore it seems to me that the procedure is orderly. Now I hope that none of us will be misled by the view that any vote which may be taken on this amendment is a forecast or will have any influence on any vote which is taken on the merits of the general proposition of a uniform or progressive income tax. I think we all have decided views one way or the other about that.

Speaking directly to the amendment now, one delegate has addressed himself in favor of defeating the suggestion provided by this amendment. I only rose to my feet because I felt the debate might close that way, realizing, however, that the mover of the amendment would have the right to close the debate. But haven't we been so thoroughly impressed with the sound logic that has fallen from the delegate from Cook who presented this whole subject that we do believe it is not best that we prevent the legislature from adopting an income tax law without any exemption at all.

The great danger, in my judgment, in this Convention on the whole subject of revenue, is that there are not enough men in it that belong to this class to whom our government has grown so paternalistic, whose income is so small. I doubt if there is a delegate in the Convention who will admit that his income is five hundred dollars or less than two thousand. We are very apt to get into the same fault that has characterized legislation in the last decade, that the great problem of the government is to take care of some. We all know that if we look around among our friends we insult these very men towards whom we are so paternalistic, when we voice the view that they have to be taken care of, even to have the Constitution guarantee them that they will never have to pay an income tax. That isn't their view, and it isn't the view of the people that live in Illinois. At any rate they do not live in Champaign county, or the Twenty-fourth District. My humble judgment is it would be taken as an insult by every man, from the man that mows our lawn or milks our cow to the man that visits our home when we are sick, to suggest to him that this Convention had gone so far in this paternalistic atmosphere of the present decade that they had taken care of him, to see he would never have to pay any taxes. We will not please them. We will make votes for this Constitution by being able to go back home and saying that there may have been some few highbrow people who addressed the Convention, but no delegates in the Convention who be-

lieved that there were any citizens in Illinois that wanted to be protected against contributing to their government.

Mr. LINDLY (Bond). I would like to ask the gentleman a question.

THE PRESIDENT. Does the gentleman yield?

Mr. GREEN (Champaign). Certainly.

Mr. LINDLY (Bond). They exempt two thousand dollars now on the income tax from the Federal Government. Have you ever heard of anybody being insulted, as you indicated a minute ago, who got that exemption?

Mr. GREEN (Champaign). "Insulted" is not perhaps the right word, but I say to you that our office is visited every year by scores of men who make out income tax returns whose income is less than two thousand dollars, to the extent that upon one occasion we put a notice in the paper for whatever it was worth, whether anybody believed it or not, that as a matter of professional opinion they did not have to bother about income taxes or income tax returns.

There is a vast difference, however, between men grumbling about the payment of income tax to the Federal Government which is, as we all know, entirely aside from the ordinary understanding of the citizen of the support of his government by taxes, although my personal opinion is there perhaps ought to be no exemptions there, and the Convention losing the opportunity to go back to the citizens of the State and saying that we had refused to follow in the path of the paternalistic gentlemen, who, by the way, are not statesmen, which the notion that they had to take care of these people. I do not believe they want it. If we go back to that time in our history when we looked at our first tax receipt it did not make any difference whether it was thirteen cents, or what it was, it was the pride of citizenship we felt. We realize that there is an opportunity to put this Convention in the confidence of the poor men and women of the State.

THE PRESIDENT. Are there any further remarks?

Mr. RINAKER (Macoupin). Mr. President.

THE PRESIDENT. The gentleman from Macoupin, Mr. Rinaker.

Mr. RINAKER (Macoupin). Do I understand the gentleman from Champaign to mean that the legislature should be restricted from making any exemption?

Mr. GREEN (Champaign). Pardon me. Perhaps I should have made it plain. I did not say so. I believe if the legislature were passing a law today and they would put it in there and if I were in the legislature I would vote against it, but let us not force them to do it.

Mr. RINAKER (Macoupin). Isn't it a fact then that if you leave the legislature unrestricted in the matter of taxation that you invite them to do the very thing that you are criticizing, and isn't the proper thing to do for this Convention, if we provide for this income tax, to put restrictions upon them here and now and give the people a chance to vote upon them and not leave it and other matters of taxation to the legislature with a free hand?

Mr. GREEN (Champaign). If it were not for the propaganda of the demagogue who is preaching the high exemption I would thoroughly agree with you. I believe that the propaganda for high exemptions from income taxation has been a dangerous thing and there has been some false education about it, and they might vote ten thousand dollars or might vote five thousand, as somebody has suggested. Therefore the restriction probably, it seems to me, is wise that it be put at a maximum. But answering the other side of your question, my judgment is that if we do not compel them to put a minimum exemption in the Constitution that by the time the legislature meets, if this Constitution is adopted, we will have gone so far to arouse the patriotic impulses of these people that the legislature won't even consider it, and they will find out the people do not want it.

Mr. RINAKER (Macoupin). Mr. President.

THE PRESIDENT. Mr. Rinaker.

Mr. RINAKER (Macoupin). I was simply asking a question. I would like to say a word about the motion itself. Personally I believe heartily and have for years believed in the principles that were so well expressed

by Mr. Wilson in his address today, that every American citizen should contribute in some portion to the support of his government, state and nation. I believe in that. I think the effect of this amendment to this particular substitute would mean that if you would put up to the legislature the determination of such matters that there would be no income tax, because if they levy any tax you compel them to make it, first, a uniform tax, and when you do that you say that the exemption shall not exceed two thousand dollars. You will then get a conflict of interest between the people who do not believe as I do that everybody should pay an income tax, and those who want a high exemption, or higher exemption, or who are opposed to the man with a small income paying any tax. I think you will simply get the legislature balled up so they will never do anything, and I am opposed to the amendment as offered, because I believe there should be no exemption, and opposed to the whole proposition for the same reason, and I think really the important question, as I suggested a while ago, was, first, to determine whether there shall or shall not be an exemption.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). The others have finished their debate. I should like to say a few words at the close of the debate, answering first the argument of the gentleman from Macoupin. My motion is merely addressed to this proposition, to find out whether it is the desire of this Convention that the General Assembly shall be required to make some exemption. It does not test the question at all of whether the section as so amended will be desirable, nor does it test the question of whether there shall be any exemption or not. It tests merely the narrow question of whether the General Assembly shall be required to make a five hundred dollar exemption, and if my friend from Macoupin has expressed himself so that I understood him that he is opposed to all exemptions he should certainly vote for the amendment.

Now I want to call your attention to just one other feature. Under the section as offered by the gentleman from Knox the General Assembly will be required to make an exemption of five hundred dollars not only for the poor man but for the millionaire. Every man will be required to have at least five hundred dollars exempted. I submit to you that it is not wise for us to say that during the life of the Constitution we are drawing under every income tax law every man shall have five hundred dollars exempted, and that is the only question now before us.

THE PRESIDENT. The delegate from Cook offers an amendment to the substitute, moving to strike out in the last sentence of the substitute the words "less than five hundred dollars nor," and the question is upon the adoption of the amendment to the substitute. As many as are of the opinion that the amendment to the substitute should prevail say "aye."

(Motion carried.)

Mr. NICHOLS (Ogle). Mr. President.

THE PRESIDENT. Mr. Nichols, the delegate from Ogle.

Mr. NICHOLS (Ogle). I desire to offer an amendment to the substitute to section 1 of article 9 as reported by the Committee on Phraseology and Style by adding the word "no" before the word "therefrom" after the word "exemption," and strike out from the substitute all after the word "exemption." That will make the section read as follows: "The power of taxation shall never be surrendered, suspended nor contracted away. Taxes shall be levied and collected only under general laws and for public purposes. No income taxes shall be levied except at a uniform rate and with no exemption therefrom."

Mr. HAMILL (Cook). Mr. President, may I make a point of order, that he offer the amendment to the substitute of the gentleman from Knox rather than as an amendment to the committee's report, because the substitute of the gentleman from Knox is now before the house.

Mr. NICHOLS (Ogle). I am offering it as an amendment to the substitute offered by the gentleman from Knox.

Mr. HAMILL (Cook). I misunderstood the gentleman.

Mr. WILSON (Cook). May I have it read?

THE PRESIDENT. The Secretary will please read the amendment offered by the delegate from Ogle.

THE SECRETARY (Reading): "Amendment to the substitute for section 1 of article 9 as reported by the Committee on Phraseology and Style. Add the word "no" before and the word "therefrom" after the word "exemption" and strike out all the substitute after the word "exemption."

Mr. LINDLY (Bond). Read the amendment.

Mr. NICHOLS (Ogle). Read it as it is now.

THE PRESIDENT. As the chair understands the amendment offered it is an amendment to the report of the Committee on Phraseology and Style.

Mr. NICHOLS (Ogle). The substitute offered by the gentleman from Knox.

THE PRESIDENT. Will the Secretary please read the section as it will read as proposed to be amended by the delegate from Ogle.

THE SECRETARY (Reading): "The power of taxation shall never be surrendered, suspended nor contracted away. Taxes shall be levied and collected only under general laws and for public purposes. No income taxes shall be levied except at a uniform rate and with no exemption therefrom."

THE PRESIDENT. The question is upon the adoption of the amendment to the substitute offered by the delegate from Ogle. Are there any questions?

Mr. NICHOLS (Ogle). Mr. Chairman.

THE PRESIDENT. The delegate from Ogle, Mr. Nichols.

Mr. NICHOLS (Ogle). I only desire to say that if we are going to make a uniform income tax law, a fundamental law, uniform as to rate, it should be uniform in practice as well as theory. I am thoroughly of the opinion that every citizen of this State should exercise the responsibilities of the government as well as he enjoys the privileges, even though his contribution to the government does not exceed the amount necessary to pay for the schedule upon his return. I am in favor of this amendment.

THE PRESIDENT. Are there any further remarks?

Mr. FIFER (McLean). Mr. President.

THE PRESIDENT. The delegate from McLean, Governor Fifer.

Mr. FIFER (McLean). I am in favor of this amendment because I believe it is along the right lines. I believe with the gentleman who has just taken his seat that every American citizen ought to contribute his mite to the support of his country. A man that pays no taxes feels no responsibilities, and consequently the tendency is to take but very little interest in the affairs of the government. Now let every man contribute in taxes to the extent of the value of his property and the tendency will be to dignify him in his own estimation. The man that wanders around the streets and through the country, that pays no taxes whatever, he gets to thinking of himself as a tramp, sobered by no responsibilities, and he isn't as good a citizen, in my judgment, as if he paid some taxes, in proportion to the value of his property.

I like the other provision. This is a uniform tax. Not uniform as to class, but uniform in general, and that meets with my approbation, and I think, on reflection, that this body ought at least to endorse the amendment.

THE PRESIDENT. Are there any further remarks?

Mr. HULL (Cook). Mr. Chairman.

THE PRESIDENT. The delegate from Cook, Mr. Hull.

Mr. HULL (Cook). I regret to have to differ from the distinguished gentlemen here who are supporting this amendment. The practice generally all over the country has been to allow certain exemptions from taxation, and I don't believe that all that practice is built upon the teachings of the demagogue or upon the proceedings of the highbrows. I think it has some very practical considerations in its support, and I believe it may be a mistake to accept this amendment. It would be a mistake for some practical consideration connected with the approval of any Constitution you may get out of this Convention. It will be simply putting a nail in the coffin of this proposed new Constitution to provide that there shall be no exemptions, and

so far as the practical application of a law of that kind is concerned, the difficulty of the collection of these small income taxes would be so great that the cost would be more than the amount received. I think that is the practical consideration against it, and I think this amendment ought to be defeated.

THE PRESIDENT. Are there any further remarks?

Mr. DUNLAP (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Dunlap.

Mr. DUNLAP (Champaign). There seems to be, in my mind, a misconception about this matter of exemption. It depends a little bit upon what you base your income tax, as I understand it. A man who has ten thousand dollars invested in business may conduct that business for an entire year and he charges it all in his expenses, except personal expenses, and he deducts those expenses from the amount received. Well now, in the case of a man who works for a salary, he cannot deduct anything for his house rent or for his living expenses. As I said before when I was on my feet, it is a matter of subsistence for that man.

And then comes the statement from one of the delegates that every man ought to contribute to the support of his government. Well, don't forget now that some of the men who are for this proposition have said that if you have an excess profits or income tax that the merchant, the manufacturer, whoever he is, will pass it along to the consumer. Well now, if that is true, doesn't the consumer pay the taxes rather than the manufacturer or merchant, and isn't it just as true that the man who works for a salary or for weekly wages, when he purchases merchandise at the store or something that contributes to his living, doesn't he pay indirectly a tax to contribute to the support of his government?

Now, this talk about you have got to have a man pay a certain amount to the government before he appreciates it is nonsense for the reason that there are other things that a man has to do. He has to obey the laws of this country, and one of those laws is that he shall defend this country in case of danger, and there are other ways by which he has to contribute to the support of the government, other than simply by paying taxes.

And then there is a practical side to it. Remember that you are going to make every man or woman who works by the week or by the month, and who is earning a very scant living, perhaps, many of them have got to make out an income tax report and satisfy the tax collector with reference to that little pittance they may have to pay. Now it is ridiculous to me that you should ask a man to do that and at the same time say that the cost of collecting income taxes from the great merchants of this country is so great under the present conditions that you almost ought to do away with an income tax, because of the great amount that the government has to spend to check up and collect the taxes.

Now let us be reasonable about this thing. Suppose we do put this Constitution out and say that you are going to collect an income tax from every individual citizen of this State. Well, let me tell you I believe, as a practical proposition, that you are inviting a great deal of opposition to this instrument that is unnecessary and unjustifiable, and I say "unjustifiable" because the money spent to collect that tax is going to be greater than the tax you receive for it. So why not put an exemption in there.

Some of the honorable gentlemen have said, I believe Mr. Wilson, the delegate from Cook, said that he would like to see all the farmer's personal property, his implements and household goods, all his principal personal property exempted from taxation, and yet you quibble about an income tax upon a man who earns by the sweat of his brow less than a thousand dollars a year! I do not think that an amendment of this kind ought to prevail. I believe it ought to be defeated, because it is unreasonable, it is unjustifiable. I believe that you ought to collect your taxes from men who have the funds to meet these taxes, and that if you collect them from those who have not the expense of collection is greater than the money received.

Mr. LINDLY (Bond). Mr. President.

THE PRESIDENT. The delegate from Bond, Mr. Lindly.

Mr. LINDLY (Bond). Just one word in regard to the proposition he brought up there in regard to income tax. I make the declaration here without fear of contradiction that there isn't a merchant nor a manufacturer in this country that pays an income tax out of his pocket. Not a single one. To illustrate: The other day we had some men in my office who were in the lumber business; they were talking about the price of lumber, and they went over the overhead that was charged up from the time it left the mill until it got into the hands of the common people, or the people who used it, and they figured that the income tax of the man who ran the sawmill was so much, and that was added to it; the man who sold it wholesale had his income tax, and that was added to it; the retail man had his income tax, and that was added to it. So that every particle of the income tax paid by the manufacturer, the wholesaler, the middle man and the retailer is added to the price of that lumber, and the man who uses that lumber pays that tax. I say without fear of contradiction that one of the reasons for the high price of commodities in this country today is the income tax, that the man who buys it finally pays the income tax of every other man along the line.

I don't know whether I am in favor of this proposition or not. I am not in favor of putting in a Constitution here that would tax these men, not have any exemption at all and tax the men who are now paying it.

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). Gentlemen of the Convention, will you bear with me just a moment? It seems to me there are some practical considerations that attend this very important question. This is one of the important questions before this Convention. Let me say that the first consideration is this: Let us not forget that we are likely to be swayed in our opinion by the fact that the Federal Government has been operating of necessity, because of war, under an excessive and burdensome income tax, and that the sort of income tax that we are now seeking to make possible is not for the purpose of financing a war, nor for the purpose of even financing the expenses of all our local and State governments, but for the purpose of supplementing our present finances and for the purpose of producing an equity which we cannot get under our present mode of taxation.

Second, the question of revenue is the compelling force in taxation. The amount expended by the various departments of the government is what determines, and you would be safe in leaving no provision as to exemption in your Constitution, in my judgment, because generally when your government needs money your General Assembly will find a way of providing that money, and your exemption will come down and down and down, as the needs arise for money.

Another thing. You are proposing to put in this amendment for no exemption in connection with a flat ungraduated income tax. Now, gentlemen, I feel the greatest diffidence in presenting my views in opposition to such a statement of broad philosophy and careful preparation as we had from the distinguished delegate from the first district in Cook county. I hesitate to differ from a delegate whose views are so worthy of serious consideration as the delegate who has offered this amendment, but, gentlemen, we are here, as has been well said, to do something practical, to be weighed by practical consideration, and in dealing with a revenue article the revenues of the State are the practical consideration to be dealt with.

What are our facts? I think we can have no better indication on the amount of income upon which we are going to have to operate than the returns to the Federal Government, because it has been notorious that our Federal Government in general has been more efficient in such matters than has our State Government. Now our Federal Government for 1918, the last report which is available in printed form, shows personal returns of \$1,256,309,487 on incomes in excess of \$1,000. There was much income that was not taxed by the Federal Government, but that under the law was returned. The

corporate income for the same period was \$759,000,000 plus, making a total of \$2,156,350,000 in taxable income. That is the situation for the year 1918.

Now, gentlemen, you are proposing to have no exemption and to have a flat income tax. A rate of 1 per cent on that amount of income, corporate and individual, will produce only \$20,000,000. Gentlemen, I wish I might have your attention to this, because I think it is important, and I think it is going to have some weight with you in determining this practical question.

Now, are you going to put a rate of less than 1 per cent on a man with an income of less than one thousand dollars? Suppose for the sake of argument, and I doubt the justice of it, that you impose a rate of 1 per cent on a man with a family, paying, as the delegate from Bond has pointed out, taxes which are passed on to him, and supposing you put this flat rate of 1 per cent on everybody and it gives you revenues from your State income tax of \$20,000,000? Now, if you use this income tax correctly you are going to use it as a substitute for many of your present forms of personal property tax, which are simply unworkable, obsolete, not used in any state with a modern tax system, not countenanced by any tax authority. Very well, what is our comparison? In Cook county we are raising now barely twenty millions of dollars, just about that, in revenue from our personal property taxes. In other words, in all of the State of Illinois you are proposing with this amendment so to limit your income tax, putting it at a flat rate, that you are proposing as a substitute in all the State of Illinois with your new tax, as a substitute for many of your other forms of taxation, to raise just about what we are able to raise in Cook county by our present taxes upon personal property. It seems to me that answers the question.

Now, if we put this provision into our Constitution saying that there shall never be any exemption whatsoever from income taxes we are going to do something that no other state has done. Gentlemen, the hard-headed tax collectors of this country, not the highbrows, will not think that hard-headed practical men have written that proposition into the Constitution, and not being acquainted with us they will say that it was a provision written by highbrows, because it is highly theoretical and in my judgment utterly impractical, and with the greatest respect for the gentlemen who hold the opposite view, I hope that the amendment will not prevail.

Mr. WILSON (Cook). Mr. Chairman.

THE PRESIDENT. The delegate from Cook, Mr. Wilson.

Mr. WILSON (Cook). I might question the figures stated by my friend. I believe he is way off. It is absolutely impossible to tell what may be collected by a small income tax by taking the records of the Federal Government. I think I stated that hundreds of thousands, if not millions, made no returns to the Federal Government and in the meanwhile were showing that they had plenty of money to spend for luxuries and things of that kind. There are so many people that are escaping the federal income tax because they are not sought out—there are one thousand men in the field to look after over five million people who are now paying income taxes, they can't possibly get around, and the people know it. My contention is that a 1 per cent income tax uniformly assessed will bring in more revenue than the State has ever received from personal property taxation, and that by far.

THE PRESIDENT. Are there any further remarks?

Mr. SUTHERLAND (Cook). Mr. President, if the delegate who has just spoken yields to a question.

THE PRESIDENT. Does the delegate yield to a question?

Mr. WILSON (Cook). Yes, sir.

Mr. SUTHERLAND (Cook). You think that the reason the Federal Government doesn't get returns on all these incomes is because there is a lack of supervision to compell it?

Mr. WILSON (Cook). Well, I know they are not returned.

Mr. SUTHERLAND (Cook). Do you think the State would have better fortune than the Federal Government in getting those returns?

Mr. WILSON (Cook). No, but I think a uniform tax on everybody would be a matter of pride and everybody would see that every man paid or know the reason why.

Mr. SUTHERLAND (Cook). There seems to be some reason to you in the fact that they would shrink from an excessive federal tax where they would yield to a flat rate State tax?

Mr. WILSON (Cook). Certainly. The record shows that they spent over four hundred million dollars in luxuries in this State.

Mr. SUTHERLAND (Cook). Is the gentleman aware that in states having state income taxes there is an exchange of information between the state officials and the federal officials on returns?

Mr. WILSON (Cook). Yes.

Mr. SUTHERLAND (Cook). And that, therefore, the citizens would understand that the Federal Government would then have the advantage of all returns made to the State, and would, therefore, have the same reticence towards the State returns that they have to the federal returns?

Mr. WILSON (Cook). Yes, but they have no knowledge of those who do not return.

Mr. LINDLY (Bond). I would like to ask the gentleman from Cook a question.

THE PRESIDENT. Does the gentleman yield further?

Mr. WILSON (Cook). Yes, sir.

Mr. LINDLY (Bond). Do you deny the fact that the income tax is handed down as overhead to the last buyer?

Mr. WILSON (Cook). If I got your oral argument, do you say that the taxes are passed on to the consumer, that is the last buyer?

Mr. LINDLY (Bond). Yes.

Mr. WILSON (Cook). That is the trouble with high taxes.

Mr. LINDLY (Bond). If as a matter of fact he pays all the income tax anyhow do you want to add it to him, no matter what he gets?

Mr. WILSON (Cook). Not at all. Excessive income taxes make excessive prices of production. If that can be eliminated the rest will go with it.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Ogle?

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). There is considerable dilemma presented by the difference between submitting to the legislature the power, within limits, to provide for exemptions and absolutely preventing any provision for exemptions.

The subject has been nowhere nearly exhausted and much misinformation apparently has been gathered from the remarks of the gentleman from Cook, who dealt with that question in his address. It is not true that the cost of collecting an income tax rationally and honestly provided for, providing a rational and honest method of payment, would anything like approach the intricacies and the trouble of collecting the almost unworkable income tax laws that the Federal Government passed, and it is because they started wrong that they got into deeper and deeper water until most people believe that they should abandon the scheme of raising money by income taxes and go to the direct sales tax. That I believe would be unfortunate. Yet I have great sympathy with everything that was said by the delegate from Bond about the fact that the consumer is after all paying the taxes, and therefore for that reason all of us would be glad to see the sales tax substituted for the present income tax. Maybe not all of us, but at any rate I think that will be the prevailing opinion as time goes on and these unworkable income tax laws are sought to be enforced. They started wrong by putting such penalties on high profits that all the complexities of collection and the inequities of the law became more and more manifest and more and more to be despised.

However, isn't this true, gentlemen: Can you think of a man—let us try it—can you think of a man who is earning five hundred dollars a year that does not belong to some organization, maybe religious, maybe fraternal, maybe economic, and 95 per cent of them belong to an economic organiza-

tion, and they pay more money every year to the support of that organization than they would pay in income taxes? Now, on principle, wouldn't it be a glorious day for Illinois when she provided that no tax could be levied upon incomes with exemptions which would allow a man to put his lodge or his union or his fraternity, or any other organization above his citizenship, and isn't that the effect of it? Have you thought of any man earning less than five hundred dollars that doesn't contribute that much to some organization? Have you thought of the enormous figures which were given us from statistics that cannot be disputed about contributions by these same men who earn less than five hundred dollars to the chewing gum industry and the tobacco industry and to the luxuries of life? All of us must admit that would far outweigh, far outstrip any amount he would pay in income taxes. Therefore, personally I feel compelled, on principle, to support this amendment.

In fairness it must be conceded that there is a political question as to the effect upon the elector who is on the other side of the question, but doesn't that revert to the same old equation that I will not repeat, but which simply means that if we know we are right on principle then let us have courage to do the right thing as we see it.

Now, I have believed that we can have enough faith in the patriotism of the people of Illinois, and I realize that some of you come from this great congested population in the city where you have to go out and devote a good deal of time to rubbing elbows with folks who would be subject to the influences of the agitator, but with this kind of an organization standing for the right principle and simply demanding—no, not demanding, but allowing it to be a policy of the State of Illinois that no man can put his lodge or his union, or his church for that matter, above his country, and in his contribution to the luxuries of life he would pay some small portion of that amount to the support of his country, don't you think we could win?

THE PRESIDENT. Are there any further remarks?

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). With much of what has been said in support of this amendment I am heartily in sympathy. I concede the justice of the remarks of the delegate from Champaign. But, Mr. President, I see one great danger, and that is the danger pointed out by the delegate from Cook. If you provide that there shall be no income tax except at a uniform rate, with no exemptions therefrom, you are putting the legislature in a situation where it will only levy such a small tax that the income therefrom cannot be used, as many of us would hope it might be used, as a substitute for the personal property tax. We are getting from the personal property tax in the State of Illinois today somewhere between forty and fifty millions of dollars. If you have no exemptions from the income tax you will not have a larger income tax levied probably than 1 per cent, and you won't be able to do away with that feature of our taxation which causes most of the trouble and most of the scandal and most of the injustice today, the lax manner in which the personal property tax is enforced.

Now, it may well be that the two thousand dollar exemption is too high. I would not argue for a moment with any delegate as to what that amount should be, but I do believe, notwithstanding that it is a fine principle to say every citizen should pay an income tax, and a principle which as a principle ought to be enforced, that we must not close our eyes to the practical effect of that upon the legislature.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Ogle?

Mr. RINAKER (Macoupin). Mr. President.

THE PRESIDENT. The delegate from Macoupin, Mr. Rinaker.

Mr. RINAKER (Macoupin). It seems to me that the real vice in this proposition that is included in the amendment is the fact that it provides for a uniform rate. If you leave out the amendment and adopt the clause as it reads, "No income taxes shall be levied except at a uniform rate, with exemption of not more than two thousand dollars of annual income," whenever the legislature proceeds to act under that clause it will immediately

provide an exemption of two thousand dollars in every case, because anything else would bring upon them the opposition of the great majority of voters whose income is less than two thousand dollars and who would be exempted by putting in that clause.

Now, leaving in your uniform rate and adopting this amendment as offered, if you propose to pass an income tax the legislature would pass a tax which would be levied at a uniform rate with no exemption therefrom. The member of the legislature is anxious to succeed himself. He differs with the gentlemen in this Convention in that particular. He would at once say that if he votes an income tax he must tax the fellow with five hundred dollars of income at the same rate that he taxes the man with a million dollar income, and he would say at once that he has got hundreds of fellows in his district with the five hundred dollar rate who would be compelled to pay an income tax, and he hasn't got a man in it who has got a million dollar income, therefore, he would protect the man with the million dollar income by refusing to pass your income tax. It seems to me that a member of the legislature will say, with the proposition of an income tax being up, "If I can vote for an income tax that will be free from the evils of the surtax," as so well explained by the gentleman from Cook county today, Mr. Wilson, "that will be free from the surtax and yet I can say to the thousand men in my district that while you may pay 1 per cent tax the hundred men in my district who have an income of ten thousand dollars will have to pay four times as much as you do," and he could then afford to take the chance with it and demand that he stand with him on it, not because of any ill-will towards the man who has the larger income, but he would say, and that is the argument that has been made here, and ought to be made, that every man ought to pay something, would have its weight with the man of small income. But it seems to me that so long as you maintain the provision "a uniform rate" you simply mean that the legislature will protect the big taxpayer from the income tax in one way or the other, either under the amendment or under the substitute.

THE PRESIDENT. Are there any further remarks?

Mr. GREEN (Champaign). May I ask a question?

THE PRESIDENT. Does the gentleman yield?

Mr. RINAKER (Macoupin). Yes, sir.

Mr. GREEN (Champaign). As I understand now, it is your position if there was a provision for graduation then the provision against exemptions might follow?

Mr. RINAKER (Macoupin). I did not catch that.

Mr. GREEN (Champaign). It is your position if there was a provision for graduation then the provision against exemptions might be satisfactory, that is, to the voter, but with the uniform income tax that then there should be a provision for exemption?

Mr. RINAKER (Macoupin). No, sir, I am opposed to any exemption.

Mr. GREEN (Champaign). Pardon me?

Mr. RINAKER (Macoupin). I am opposed to any exemption. I favor the idea of no exemption. Everybody ought to pay a tax.

Mr. GREEN (Champaign). That is this motion. I thought you were not speaking on the motion. The motion is to cut out the provision of exemptions, so that there shall be none.

Mr. RINAKER (Macoupin). It does that, but it contains the thing in it that I think prevents any income tax namely, a uniform rate, if I haven't yet made myself clear.

Mr. GREEN (Champaign). That isn't the pending question, however.

Mr. RINAKER (Macoupin). No, sir, but it is involved in it. If you adopt this motion as made, striking out these other clauses and providing that there shall be no exemption therefrom, I am in favor of that part of it, but I think we are not getting anywhere by adopting it, because we have got in it the same evil of a uniform rate.

Mr. GREEN (Champaign). That will come up on the next question.

THE PRESIDENT. Are there any further remarks?

Mr. RINAKER (Macoupin). I shall vote for this amendment.

Mr. LINDLY (Bond). Why wouldn't you vote for the other amendment?

Mr. RINAKER (Macoupin). How?

Mr. LINDLY (Bond). Why wouldn't you vote for the other amendment?

Mr. RINAKER (Macoupin). Because I won't vote for the section.

THE PRESIDENT. Are there any further remarks?

Mr. DAWES (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Dawes.

Mr. DAWES (Cook). I was much impressed with the figures presented by the delegate from Knox when he informed us that more than three hundred million dollars were paid to the Federal Government by income taxes. I have not yet learned that those taxes were paid by 166,000 of our citizens, and that at a time when more than two million voted in the presidential contest. This great disparity between the number of voters and the number of taxpayers who have contributed to this enormous sum is a fact that evidently has been deeply impressed on the minds of all the delegates. I believe that the necessities of the war which caused the enactment of a federal income tax, with heavy surtaxes, with high exemptions, and which brought such abuses in the form of high prices and restricted manufacturing, have left in the minds of all of us a fear of income taxes of every kind. Now, when in our earlier sessions we were considering the general subject of a State income tax we felt that in the State of Illinois there were two situations which the use of an income tax to some extent might meet, to-wit, those who had salaries and incomes but who escaped entirely the payment of taxes to the State, and in the second place, those who in our judgment were not paying sufficient taxes upon property of intangible form, and consequently we devised income taxes which we thought might be used in the one case to produce a revenue to the State from those who were not contributing to the support of the State, although they were in the possession of salaries and incomes, and with respect to the others through the imposition of an income tax to come more nearly establishing equity as between the owners of intangible property and the owners of tangible property within the State. As we studied that question it seemed to be necessary to give to the legislature freedom to differentiate in these taxes, and when we studied the situation in other states we found that the income tax within the states was used as a kind of an equalizing medium, to supplement the revenues of the state, to establish more of equity as between the various taxpayers of the state. We have never found any state in which they found it possible to impose this sort of a tax without any exemption whatever.

I must say that I share so completely the views that were expressed by the delegate from Macoupin, that I believe that if we could pass a rule which would forbid the legislature to make any exemptions under any circumstances from any taxpayers, that we would be taking a step that would make it practically impossible for the legislature to make use of this device which we had hoped might be used to establish justice, or more nearly a state of justice as between taxpayers, and to increase the revenues of the State by bringing to its support that income of salaried men who at the present time are not paying any taxes at all.

I am in favor entirely and decidedly of increasing the number of taxpayers. It impressed me as being a dangerous thing and one that we ought by all means attempt to correct that 16 per cent or less than 16 per cent of our people should contribute to these heavy taxes, or 16 per cent of our voters should contribute to these heavy taxes. We ought to bring the number of taxpayers more nearly to the number of voters. There is no question about that. Were I in the legislature I would favor the lowest sort of an exemption, but I do not believe that it is safe to tie the hands of the legislature in this manner, because I would greatly fear that the result of it might be that they could not use this income tax at all, if we tied it up in both these respects.

THE PRESIDENT. Are there any further remarks?

Mr. NICHOLS (Ogle). Mr. President.

THE PRESIDENT. The delegate from Ogle, Mr. Nichols.

Mr. NICHOLS (Ogle). I have no further remarks. I desire to say that for the last two years that I have sat in my seat there has been no article nor a section of an article submitted to this Convention that was not opposed on the ground that it would drive another nail in the coffin of a new Constitution, to kill our Constitution. As a farmer who employs a few men I wish to tell the gentlemen here that those men are not objects of charity. They ride in their Ford—I buy the gas—and they would like to be recognized as citizens of the State of Illinois. I believe this amendment is absolutely sound in principle and should be adopted, and we should not classify our citizens through the revenue article.

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Ogle.

Mr. LINDLY (Bond). Mr. President, I ask for a roll call.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). If I were in the legislature and this question were there pending and I felt as I now do I should vote against any exemption, but I am not in that legislature. I am now trying to frame a Constitution which shall govern the legislature in its future deliberations and the question before my mind for consideration is, shall I deny to the legislature the power to make exemptions or shall I permit them to make exemptions, if that seems the wise thing to do? I still feel, as I did a few minutes ago, somewhat humble and not very sure that I can decide for all future generations, and therefore I shall vote to leave to the legislature to determine whether there shall be an exemption.

THE PRESIDENT. The question is on the adoption of the amendment offered by the gentleman from Ogle.

Mr. LINDLY (Bond). Roll call.

THE PRESIDENT. The amendment offered by the delegate from Ogle is to amend the substitute offered by the delegate from Knox by inserting the word "no" before the word "exemption" and by striking out all after the word "exemption" and by substituting in lieu thereof the word "therefrom." As many as are of the opinion——

Mr. LINDLY (Bond). Roll call.

THE PRESIDENT. Are there five members who want a roll call on that?

Yes, there will be a roll call. The question is upon the adoption of the amendment. As many as are of the opinion that the amendment should prevail will say "aye" and those opposed will say "no" as their names are called. The Secretary will please call the roll.

(Roll call.)

THE PRESIDENT. On this question the ayes are 14 and the noes are 26, and the amendment is declared lost.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The gentleman from Champaign, Mr. Green.

Mr. GREEN (Champaign). I move the Convention now adjourn to 9 o'clock tomorrow morning.

THE PRESIDENT. The gentleman from Champaign, Mr. Green, moves that we adjourn until 9 o'clock tomorrow morning. As many as are of the opinion the motion should prevail say "aye." As many as are of the contrary opinion say "no." Motion carried. The Convention stands adjourned to 9 o'clock tomorrow morning.

Convention adjourned to 9:00 o'clock a. m. of the following day, Thursday, February 9, 1922.

THURSDAY, FEBRUARY 9, 1922.**9:00 o'Clock A. M.**

The Convention met pursuant to adjournment.

The President in the chair.

THE PRESIDENT. The Convention will please come to order. Opening prayer by the Chaplain, Rev. Jerry Wallace, rector, Christ's Episcopal Church, Springfield, Illinois.

THE PRESIDENT. The journal of Tuesday, February 7th, was placed on the desks of the delegates on yesterday and is now subject to correction.

Mr. MIGHELL (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane, Mr. Mighell.

Mr. MIGHELL (Kane). In the last roll call, the name of Mr. Michal (Cook) appears as voting in the negative. I believe it is simply an error in the print, but I am sure Mr. Michal (Cook) would not want his name to appear on that side, and I would like to have my own appear in place of his.

THE PRESIDENT. The journal will be corrected accordingly. The journal as corrected will stand approved.

At the adjournment last evening, the matter under consideration was the substitute offered by the delegate from Knox, Mr. Gale, for section 1 of the revenue article. That substitute is now before the Convention for further consideration. Are there any further remarks upon the substitute?

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I move you, sir, that the word "two" immediately before the word "thousand" in the next to the last line, be changed to "one" and that the integer "two" in the figures "2,000" be changed to "one," so that the maximum exemption shall be 1,000 instead of 2,000.

THE PRESIDENT. The delegate from Cook, Mr. Hamill, moves that the substitute be amended by striking out the word "two" and substituting in lieu thereof the word "one" in the next to the last line, so that the section as proposed to be amended will provide for a maximum exemption of \$1,000 instead of \$2,000 from the income tax. Are there any remarks upon the motion of the delegate from Cook (Hamill)?

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. The delegate from Schuyler, Mr. Jarman.

Mr. JARMAN (Schuyler). I would like to ask a definite question.

Mr. HAMILL (Cook). Yes, sir.

Mr. JARMAN (Schuyler). It is simply for the matter of information. With that section as it is, and that clause of the section which you propose to amend, and also as you propose to amend the amendment, would it be possible to make one exemption for single men or single taxpayers, and another exemption for married taxpayers?

Mr. HAMILL (Cook). In my judgment it would. It is possible, under the decisions of the courts, the federal courts as well as the State courts, to maintain uniformity of rate and still make classification, if the classification is based upon some reasonable attribute inherent in the subjects classified, and in my judgment if the legislature should classify people by drawing a distinction between those who are heads of families and those who are not, it would not violate the requirement in this section that the income tax shall be uniform as to rate. That is mentioned as a lawyer.

Mr. JARMAN (Schuyler). The reason I asked the question, my judgment was otherwise, after a casual examination of the matter.

THE PRESIDENT. Are there any further remarks?

Mr. HAMILL (Cook). Answering further the gentleman's question, I will say that the question is not entirely free from doubt, but my judgment is that it could be done.

There was also this query in my mind, whether the section as thus drawn would require any exemption made to be deducted from all income, or whether the legislature might provide that there should be an exemption of \$1,000 given to those whose income did not exceed say \$1,500 or \$1,000, while there would be no deduction from the income of the man whose income was \$10,000. I believe, however, under the rule of law which I have just stated, that with the section as it is now drawn, the legislature could provide that those whose incomes did not exceed \$1,000 should be exempt from any tax, while those whose income was \$2,000 should have no exemption.

Mr. JARMAN (Schuyler). Wouldn't that be in violation of the rule, that the provision in the Constitution is a limitation?

Mr. HAMILL (Cook). I think not, because the only limitation here is that the tax shall be at a uniform rate, and the rate would be uniform upon those upon whom it fell, with the classification as to those who should pay the tax and those who should not.

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). May I ask the delegate a question?

Mr. HAMILL (Cook). Certainly.

Mr. SUTHERLAND (Cook). Do I understand that you think that the legislature could, under the language as it stands, say this: That there should be an exemption of \$500 to all single persons and an exemption of \$1,000 to all heads of families, or that they might say there should be an exemption of \$500 to all single persons whose total net income did not exceed \$1,000, and an exemption of \$1,000 to all heads of families whose total net income did not exceed \$2,000? Is it your understanding that this language would give them that latitude?

Mr. HAMILL (Cook). It is my understanding that it would. The question, however, as I said before, is not entirely free from doubt, and I think perhaps that it would be wise for us to so frame it that there could be no doubt, whichever way we decide it ought to be. I made my present motion to reduce this maximum of exemption from two to one thousand dollars with a view of testing out the sentiment of the Convention upon that question, and I think it is quite likely that before we finish with this section we shall desire to recast it in several particulars, so that when we know what we will want to do, we will frame it in language that will undoubtedly accomplish the purpose sought.

Mr. SUTHERLAND (Cook). Mr. President, may I say a word?

THE PRESIDENT. Does the delegate from Cook, Mr. Hamill, yield?

Mr. HAMILL (Cook). Yes, sir.

Mr. SUTHERLAND (Cook). I have no objection to reducing the maximum somewhat below \$2,000, although I do not think that is high; the only thing in my mind being that it might be suggesting to the General Assembly to go to that limit at once. However, it seems to me that \$1,000 is perhaps a little narrow, and personally I should prefer to have it left at about \$1,500. Therefore, I shall feel constrained at this time to vote against the motion.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook, Mr. Hamill? If not——

Mr. HAMILL (Cook). Mr. President, the attendance here is rather small, and I question the wisdom of taking a vote at this time, because we are now on second reading and the vote taken will bind those who are not here. It seems to me that we could more profitably employ our time this morning in discussing these questions and in trying to enlighten each other and get each other's views, rather than to bind the Convention by the votes that are taken. I hope, therefore, that those who have an opinion on this question will express themselves, and that a vote thereon may be deferred until there is a larger attendance.

Mr. JARMAN (Schuyler). Mr. President.

THE PRESIDENT. Does Mr. Hamill (Cook) yield?

Mr. HAMILL (Cook). Certainly.

THE PRESIDENT. The delegate from Schuyler.

Mr. JARMAN (Schuyler). I just have a suggestion to make; I am not prepared to make it as a motion. I simply suggest here on the floor to the Rules Committee that this seems to be a very complicated question, and as I understand it, there are a great many men to be heard. Now, wouldn't it lead to a better discussion and a better understanding of these questions if it were provided by some rule that these amendments could be introduced, and then after they all were in, that they be taken up in their order as introduced and passed upon?

Now, that was the plan adopted by the New York convention. Otherwise it leads to a misunderstanding and to some extent a misconception of the situation. Now, Mr. Hamill (Cook) for instance, introduces an amendment to this section. Well, now, under the rules you have to vote on that amendment before you can introduce another amendment, whereas if somebody else would suggest an amendment, it might alter the Convention's views, giving them another viewpoint. Isn't there some way the Rules Committee could arrange it so that we could get all these amendments before the Convention before any of them are adopted? I think it would aid in clarifying our views on this question.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I think there is much merit in the suggestion of the gentleman from Schuyler (Jarman;); I don't know that it is entirely feasible; because as the debate proceeds amendments suggest themselves to the minds of members, and it would not be wise to shut off the possibility of an amendment so suggested.

Let me say now that I shall gladly withdraw the motion I have made this morning, which was only made for the purpose of drawing out an expression upon this one question, if any other delegate has an amendment that he desires to offer, or any motion that he desires to offer, bearing upon this question. I wanted to provoke discussion on this question, and it seemed to me the way to do it was to start with this motion.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook (Hamill)?

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). It just occurs to me that possibly we could get at the matter better if it were possible to offer several amendments as to the figures on the exemption question at this time and——

Mr. HAMILL (Cook). I will withdraw my motion. You can offer any one you want.

THE PRESIDENT. The delegate from Cook (Hamill) withdraws the motion to amend which he has heretofore made.

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). I will offer an amendment to make the figures \$1500.00 instead of \$2,000 and the words fifteen hundred dollars instead of two thousand.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland, moves to amend the substitute by providing, in substance, that the exemption from the income tax may be fixed by the General Assembly at not to exceed \$1500. Are there any remarks upon that motion.

Mr. SUTHERLAND (Cook). That is offered for the purpose of provoking discussion, if that is the desire of the Convention. Of course it is in the hands of the Convention as to what shall be done with it.

Mr. HAMILL (Cook). I would like to ask the gentleman who makes the motion if he will enlighten us as to what there is in his mind that makes \$1,500 seem more desirable than \$1,000?

Mr. SUTHERLAND (Cook). Well, this is in my mind, Mr. President: I am thinking to some extent of the Wisconsin law. Some say we should not pay any attention to what other states do. I think, however, that we should take advantage of all reasonable experience. The Wisconsin law is

not an extreme income tax law. It provides for an exemption of \$600 to a single person; of \$1,200 to the head of a family; and then allows a further exemption of \$200 for each dependent child or absolutely dependent person. Now, \$1,500 would give us leeway to make a similar provision if we cared to do so. One thousand dollars would be a little more narrow. Five hundred dollars in the first class; \$1,000 in the second, and then \$200 each for children, it might take us up to \$1,400 or \$1,500; that was my thought.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook (Sutherland)?

Mr. CATRON (Sangamon). Mr. President.

THE PRESIDENT. The delegate from Sangamon, Mr. Catron.

Mr. CATRON (Sangamon). I would like to say just a word on my views in the matter.

If this was a matter before the General Assembly for fixing the exemption that might be allowed, I might very well be in favor of the suggestion that the exemption be limited to \$1,000, but this is a proposition to be included in the basic law of the State, the Constitution, and to be effective for a long time, possibly fifty years or more.

Under those conditions, it seems to me that it would not be wise to fix a limit which might be too small or too narrow, either, nor high enough or not low enough, and it occurs to me that either \$1,000 or \$1,500 might in time be found to be too small a limitation to be placed in certain cases; for instance, to be allowed to the head of a family in this State.

So far as I am concerned, I am better satisfied in my own mind with the provisions as fixed by the report of the Committee on Phraseology and Style. It fixes a minimum limit of \$500 exemption and a maximum limit of \$2,000. Now, those limits may be found by the legislature to be too small in the one case or too large in the other case, but those are minimum and maximum limits which will give the legislature some freedom of action in fixing a limit of exemption from taxation. It seems to me that in making this provision in the Constitution we should fix limits, if we fix any limits at all, which would be considered as an extreme limit as to minimum or maximum, and allow the legislature some discretion and some leeway in fixing the exact amounts from time to time in the future.

THE PRESIDENT. Are there any further remarks?

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). It seems to me that in discussing these questions, we should bear in mind very definitely what the theory of taxation is. Why does a government impose taxes? Upon what theory is it justified in going to the citizen and saying, "You have to turn in to your government part of your earnings." How is it justified? Well, it seems to me that the government says to its citizen: "We, the government, furnish you with protection; your property, your right to life, and all of your movements are under the protection of the State and you have no right to expect or demand that protection unless you give something for it." Now, that protection of life is given to the poorest man in the State, and the poorest man in the State must pay for that, just as he pays for his food or his clothing. It is just as important to him that he have protection as it is that he have heat, food and shelter, and so theoretically I am opposed to any exemption.

The man who does not pay taxes is getting something for nothing. He is taking something away from some other citizen, because the other citizen is paying for his protection, and therefore I would not permit the poorest to escape some form of tax.

If I were in the legislature and I felt as I now do, I should vote against any exemption. Not being in the legislature and trying to fix a rule that shall govern the legislature for many years to come, I am not willing to impose my own views in all of their rigidity, but I am willing to say that if the legislature is going to have any freedom to depart from a sound theory of taxation, that freedom must be reduced to a minimum.

I therefore am opposed to \$1,500, not because it is less than the amount fixed in the report before us of \$2,000, but because in my opinion it is too

high. One thousand dollars is abundant freedom, it seems to me, for the legislature to roam in, in order to depart from sound theories of government.

THE PRESIDENT. Are there any further remarks upon the amendment? Is it the desire of the delegate from Cook (Sutherland) that the amendment be stated for a vote now?

Mr. SUTHERLAND (Cook). I beg your pardon?

THE PRESIDENT. I say, is it the desire of the delegate from Cook (Sutherland) that the amendment be stated for a vote now?

Mr. SUTHERLAND (Cook). Why, I think it might be taken up now. It might come up in different form, I suppose, at some other time when there is a fuller attendance. A vote now would establish the sentiment that exists among those present.

THE PRESIDENT. The question then is upon the adoption of the amendment offered by the delegate from Cook, Mr. Sutherland, in substance that the maximum exemption permitted from the income tax shall be \$1,500. (Amendment lost.)

THE PRESIDENT. The question then is upon the adoption of the substitute of the substitute as offered by the delegate from Knox, Mr. Gale. Are there any further remarks upon the substitute?

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). I now renew the motion which I withdrew, that the \$2,000 be changed to \$1,000.

THE PRESIDENT. And Mr. Hamill (Cook) renews the motion that the exemption be fixed at \$1,000 instead of \$2,000. Are there any remarks on the amendment offered by the delegate from Cook? If not, the question is upon that motion.

(Motion lost.)

Mr. SHANAHAN (Cook). Division.

THE PRESIDENT. On this vote, the yeas are 18 and the nays 24, and the amendment is declared lost.

Mr. GREEN (Champaign). Mr. President.

THE PRESIDENT. The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). I rise to a point of order. My point of order is that while it would seem that this amendment was before the Convention for action, there is less than a quorum that voted. The Convention ought not to be recorded permanently so as to prevent consideration of that question again.

THE PRESIDENT. The chair does not understand it precludes further consideration on the amendment submitted.

Mr. GREEN (Champaign). It does not?

Mr. SUTHERLAND (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). I desire to offer an amendment to the pending substitute.

MR. PRESIDENT. And the delegate from Cook, Mr. Sutherland offers an amendment to the pending substitute. The Secretary will please read the amendment.

(Amendment read.)

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Cook, Mr. Sutherland.

Mr. SUTHERLAND (Cook). I very greatly prefer the pending substitute offered by the delegate from Knox (Gale) to the measure as it proceeded from the Committee of the Whole, and even to the report of the Phraseology and Style Committee, which improved at least the language of the Committee of the Whole on the section and article. But, Mr. President, it seems to me that most of those are far too narrow for an ideal article on revenue; that all that we ought to do in governing the action of the General Assembly for years to come is to lay down some basic principle and then leave it to them to work out this most difficult of all problems of government as they may see fit.

I have no fear, so far as exemptions from income tax go, that the General Assembly will go very wild, because of the need of revenue and the need of adjustment. The General Assembly will act in a serviceable way to the people in proportion to the amount of power that you give them, and the only limitations should be those that rest upon fundamental principles, and not those that rest upon detail.

Now, I would want, if this should be adopted, to make motions which would strike out all of the other of these four sections excepting possibly the one relating to exemptions from property tax, now in the Constitution, which in the main are sound, but would give the General Assembly power to handle all other matters so that one form of tax might be substituted for another, and so that the exemptions now in the Constitution should not be considered as limiting the income tax.

I am not thinking of my own views on taxation; I am not thinking of the kind of a revenue law that I myself would want to write now. I have my own definite ideas on that. It would be such a law in the main as would produce the greatest possible number of individual taxpayers, upon the basis of property and upon the basis of no property, namely, of income and of privilege, and I would try to frame a law so that the burdens of government should be distributed among the several groups of taxpayers, whether payers of taxes upon property or payers of taxes upon income or payers of taxes upon other rights or privileges, provided by the government to which they are contributing.

Those would be the things that I would try to subserve. I would not want to tax one kind of value at the expense of another; or to tax one group of citizens to the detriment of another, and I think that no sane man would want to do such a thing, and that no member of any general assembly would want to do such a thing, and that no majority of any general assembly would vote to do such a thing, because on matters of taxation, on matters affecting economics and commercial and industrial life as vitally as this question of taxation does, the General Assembly is very slow to proceed in an unthinking and rash manner. The General Assembly has tremendous powers now in other fields than taxation. They have powers to enact such laws which would cripple the business of this State in efforts to serve one interest or one group. They have not exercised those powers. When radical suggestions are made, sane counsel in the end prevails, and rarely does a bad law get on the statute books at all, and when it does and works badly, the next session sees it repealed. So it is on matters of taxation, and we can better afford to give the General Assembly of Illinois full and free powers of taxation than we can to so tie its hands that it cannot affect equity, when we have in this State, as we have today, a situation of practical anarchy with reference to some of the aspects of taxation, a situation in which the law is by common consent disregarded, an immoral situation.

So, Mr. President, seeing that no harm has been done in Maryland, which for many years had and still has in the body of its constitution substantially this phrase as to the distribution of burdens of taxation, a proposition which, put into the Constitution, in my judgment, would give any citizen or taxpayer a right to appeal to the courts if the General Assembly violently disregarded the common ideas and rules of equity; seeing that Connecticut, with no revenue section at all, absolutely no limitation upon its general assembly, has equitable and fair, not radical nor insane, tax laws on its statute books; seeing that New York state, whose only provision is that it shall require to pass its laws two-thirds of a quorum, less than our own provision here, for they do not require a majority of the members elected to pass a law and we require a majority of the members elected to pass any law; seeing that New York has suffered no tremendously ill effects from tax legislation, and is in fact in better case than our own State on tax matters; seeing that Iowa, with no other provision in its constitution with reference to revenue than that its revenue laws shall be by general application, that taxes shall be by general law; seeing those states and others with broad revenue provisions have suffered

no great inconvenience, no violence to business, no violence to any industrial interest; I have no fear in turning the same power over to the General Assembly of the State of Illinois, and that is my reason for suggesting this amendment to section 1.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook, Mr. Sutherland?

Mr. HAMILL (Cook). Will the gentleman answer a question?

Mr. SUTHERLAND (Cook). I will try to.

Mr. HAMILL (Cook). Will you be good enough to read the sentence which you have added to the clause—the substitute offered by the gentleman from Knox (Gale)?

Mr. SUTHERLAND (Cook). (Reading): "The burden of taxation shall be so distributed that every person and corporation shall pay his, her or its proportionate share of the expenses of government."

Mr. HAMILL (Cook). "Proportionate" means some relation to; it means that things proportion, one to the other, does it not?

Mr. SUTHERLAND (Cook). Yes, sir.

Mr. HAMILL (Cook). What does it mean as you have it in your sentence?

Mr. SUTHERLAND (Cook). As I understand it, sir, it would mean that the General Assembly in whatever system of taxation and of taxes it should build up, should mean some relationship in the burdens to be borne by different groups of taxpayers.

Mr. HAMILL (Cook). Relationship between burdens and what?

Mr. SUTHERLAND (Cook). If you had purely a property tax—if the General Assembly provided purely a property tax, you would then have your present rule of proportionate taxation; that would be required, and any tax——

Mr. HAMILL (Cook). That is proportionate to value.

Mr. SUTHERLAND (Cook). Proportionate to value. Any tax by value would have to be proportionate, as it should be.

Mr. HAMILL (Cook). I don't know what you mean by that.

Mr. SUTHERLAND (Cook). I beg your pardon?

Mr. HAMILL (Cook). I don't know what you mean by that.

Mr. SUTHERLAND (Cook). Well, what does the present Constitution mean by that? The language of the present Constitution is that each person or corporation shall pay a tax in proportion to the value of his, her or its property.

Mr. HAMILL (Cook). That is perfectly clear; that is proportionate to the value. You don't say "proportionate" to value.

Mr. SUTHERLAND (Cook). Now, when the General Assembly provided for a tax upon value under this clause, all taxes by value would have to be proportionate. In accordance with my understanding, if an income tax were provided, that tax would have to be proportionate, proportionate to the amount of income. Now, whether that would mean a uniform tax or whether some amount of graduation might be permitted, it might require experience; it might require some court decisions to establish.

Mr. HAMILL (Cook). Would it be possible to argue that if it were proportionate to the ability of the individual to pay, it was proportionate?

Mr. SUTHERLAND (Cook). I should think so. I should think so.

Mr. HAMILL (Cook). Where would you get a measure anything like an accurate measure of one's ability to pay?

Mr. SUTHERLAND (Cook). I don't think you could get, under this or any general clause, anything except a substantial measure. If a law was so drawn that it affected a substantial mass of the citizens adversely, I think under this clause the courts would overrule it. If it established substantial uniformity for the mass of citizens, I think the courts would sustain it. Its effect, of course, is to leave all of the power in the hands of the General Assembly, and that is exactly what I am willing to do.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Cook, Mr. Sutherland?

Mr. BARR (Will). Mr. President, may I have that read again?

THE PRESIDENT. Will the Secretary please read the amendment?
(Amendment read.)

THE PRESIDENT. Are there any further remarks on the amendment?
If not, are you ready—

Mr. BRANDON (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane, Mr. Brandon.

Mr. BRANDON (Kane). I wonder if the gentleman would yield to a question?

Mr. SUTHERLAND (Cook). Certainly.

Mr. BRANDON (Kane). This would permit a graduated income tax?

Mr. SUTHERLAND (Cook). In my judgment, yes, to a limited extent; to an extent that would not be subversive of the general welfare of the community.

Mr. BRANDON (Kane). And your notion that it would prevent an extreme graduation is that an extreme graduation would not be proportionate to the service rendered by the government to the individual?

Mr. SUTHERLAND (Cook). Yes, sir.

Mr. BRANDON (Kane). And that, for example, if a man were very rich and the law provided that one man should pay ten times the rate of another man, that he ought to, because he is getting ten times as much service from the government as the other man?

Mr. SUTHERLAND (Cook). Yes, if that rate should prove not to be disturbing of the general economic situation. You might put that ten times as much; it might be a rate of 100 per cent, or so large as to be absurd. It would depend upon how you started your graduation. A rate of 10 per cent might be proportionate to his ability to pay, where a rate of 100 per cent would not be.

Mr. BRANDON (Kane). If the State were confronted with such a crisis as the Federal Government was confronted with during the war—

Mr. SUTHERLAND (Cook). Which it would not be—

Mr. BRANDON (Kane). Well, it might be; we can't foresee. Then it would be possible to go to the extreme that the Federal Government went in disproportionate rate of income tax, because the government needed more participation by its citizens than it needed formerly?

Mr. SUTHERLAND (Cook). No, I don't think it could, because just as you say, it is disproportionate, and if we generally conceded it was disproportionate, the law would not be sustained.

Mr. BRANDON (Kane). Well, but doesn't it yield to the necessities of the thing against which it is apportioned?

Mr. SUTHERLAND (Cook). No, I don't think so.

THE PRESIDENT. Are there any further remarks?

Mr. SIX (Pike). Mr. President, may I ask the gentleman a question?

Mr. SUTHERLAND (Cook). Yes.

Mr. SIX (Pike). What is the advantage of the expression by general law?

Mr. SUTHERLAND (Cook). Well, that is the language that has been in right along, because you don't want to have laws passed that will apply to your county and not to Kane or Kankakee counties or not to Marshall county. We want a law that will be State-wide in its application.

Mr. SIX (Pike). Don't you think the word "only" left out would leave it in the condition you have just stated?

Mr. SUTHERLAND (Cook). I don't think that makes very much difference.

THE PRESIDENT. Are there any further remarks? If not, the question is upon the adoption of the amendment offered by the delegate from Cook, Mr. Sutherland. Before voting on that, will the Secretary again please read the amendment?

(Amendment read.)

THE PRESIDENT. The question is upon the adoption of the amendment, as read.

(Amendment lost.)

THE PRESIDENT. The question then is upon the adoption of the substitute offered by the delegate from Knox, Mr. Gale.

Mr. BRANDON (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane, Mr. Brandon.

Mr. BRANDON (Kane). I wish to offer an amendment, to strike out the third sentence of the substitute and insert the following:

"If an income tax be levied at a graduated and progressive rate, the highest rate shall not exceed four times the lowest rate, and no exemption of more than \$1,000 of annual income shall be allowed to any one person, or corporation. If such tax be levied at a uniform rate, there shall be no exemption therefrom of more than \$2,000 of annual income to any person or corporation."

THE PRESIDENT. The question is upon the adoption of the amendment offered by the delegate from Kane, Mr. Brandon.

Mr. BRANDON (Kane). I should like to be heard on that just a moment.

THE PRESIDENT. The delegate from Kane is recognized.

Mr. BRANDON (Kane). I just want to say this: I go along with the gentleman from Cook, Mr. Sutherland, in the theory that we should not bind the General Assembly in its methods of getting the necessary funds to run this State. I believe that one of our chief responsibilities in this Convention is to let down the bars so that we may be able to work out, through the General Assembly, a system of taxation; but I do feel that there is one limitation, and that is that if the General Assembly decides to adopt a graduated income tax, that there should be some limit to the graduation.

All of us appreciated what the gentleman from Cook, Mr. Wilson, said yesterday. My objection to a provision that there should be no possible exemptions and no graduation is that we would have to educate the people of the State to adopt the Constitution in which it was provided; but that if it is permissive, and if Mr. Wilson is right, it is necessary to educate only the General Assembly, and through it, of course, the people. But the great difference is that if the General Assembly makes a mistake, it can correct it, and if we make a mistake we can't. So I stand for a very liberal release of restrictions on the General Assembly, but I do believe that if we permit the General Assembly to provide for a graduated and progressive income tax, that there should be a limitation to the extent of those graduations.

Now, this amendment embodies in it the result of the previous test vote on maximum exemption for a flat rate income tax, and simply inserts a sentence limiting the General Assembly to four times the lowest rate in a graduated tax. Now, some of the delegates have told me, in discussion of this matter, that they would prefer three times to four times. Others have said they would prefer six times to four times. You would have to take the time here to determine what was the sense of the Convention as to the figures. I put in the figure "four" because that was the figure that appeared in the original report of the Revenue Committee, as reported out by the Committee on Phraseology and Style.

THE PRESIDENT. Are there any further remarks? If not, the question is upon the adoption of the amendment offered by the delegate from Kane, Mr. Brandon.

Mr. HULL (Cook). Mr. President, will the Secretary read that again?

THE PRESIDENT. Will the Secretary please read the amendment?

Mr. HULL (Cook). Mr. President, for a better understanding on the part of the Convention, hadn't we better have the whole thing read, just as it would read with that amendment incorporated into the substitute?

(Substitute read as amended by last amendment.)

Mr. HULL (Cook). May I ask the gentleman a question?

THE PRESIDENT. The delegate from Cook, Mr. Hull, desires to ask a question.

Mr. HULL (Cook). Does that provision there with reference to exemption apply also to an income tax levied at a progressive rate, or only to an income tax levied on a flat rate?

Mr. BRANDON (Kane). The exemption under the uniform rate is limited to \$2,000, and under the progressive rate to \$1,000.

THE PRESIDENT. Are there any further remarks on the amendment? If not, as many as are of the opinion——

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. —that the amendment should prevail, say aye.

Mr. HAMILL (Cook). Mr. President.

THE PRESIDENT. The delegate from Cook, Mr. Hamill.

Mr. HAMILL (Cook). The gentleman from Knox (Gale) is trying to get the floor, and I hope we can hear from him.

THE PRESIDENT. The chair regrets he did not hear the gentleman from Knox, Mr. Gale.

Mr. GALE (Knox). I have been, as most of you know, a believer in a graduated and progressive income tax. I would still believe that that income tax should be applied in this State, or in any other State, were it not for the fact that it seems to me the Federal Government has gone the limit on graduated and progressive taxes, and it further seems to me that we have all got to recognize that for generations to come, longer than the Constitution, if it is adopted, can possibly hope to endure, the Federal Government will continue to have to raise the main portion of its revenue by a graduated and progressive tax.

The great danger of a State income tax, it seems to me, is that you may get your rates so high that they interfere with the Federal Government. The danger of a graduated and progressive tax is that when you add the graduated and progressive rates to the federal graduated and progressive rates, you have placed on incomes, and on the larger incomes, such a tax that you absolutely discourage industry; you throw more and more of surplus earnings into the tax-exempt securities, and make it practically impossible to get the necessary money for new projects and new enterprises.

I was very much impressed by the address of Delegate Wilson (Cook) yesterday, and I believe that for the reason which I have stated a State income tax now should be required to be on a uniform rate.

Mr. HULL (Cook). May I ask the gentleman a question?

Mr. GALE (Knox). Yes, sir.

Mr. HULL (Cook). Can he tell me what the experience has been of other states in the matter of income taxes?

Mr. GALE (Knox). In other states, income taxes are not very numerous. The experience in Wisconsin has been that they have gone up in their rates; they are permitted a graduated and progressive tax there.

Now, the Massachusetts and New York experience has been a little bit new to tell much, if anything, about it, except that they do find that they raise a pretty large tax from their income tax in New York, where their highest rate is 3 per cent.

Mr. HULL (Cook). Do they have a graduated rate in Massachusetts?

Mr. GALE (Knox). No, they don't.

Mr. HULL (Cook). A uniform rate?

Mr. GALE (Knox). Yes, sir.

Mr. HULL (Cook). Are they permitted to have a graduated tax by their Constitution?

Mr. GALE (Knox). Yes, sir.

Mr. HULL (Cook). What is the case in New York; are they permitted to have a graduated rate there?

Mr. GALE (Knox). I think they are, but I have forgotten. I think they are. As I remember it, there is no limitation in the New York constitution at all.

Mr. HULL (Cook). With reference to taxation?

Mr. GALE (Knox). Any kind of taxation.

Mr. HULL (Cook). But they have, as a matter of fact, a uniform income tax for New York?

Mr. GALE (Knox). Yes.

Mr. SUTHERLAND (Cook). No, graduated, 3 per cent.

Mr. GALE (Knox). They have the power to levy a uniform tax or a graduated tax in New York. You mean what the tax is?

Mr. HULL (Cook). Yes, what are they doing actually?

Mr. GALE (Knox). As I understand, they are levying a graduated tax.

Mr. HULL (Cook). Are there other states in which they have income taxes for state purposes?

Mr. CATRON (Sangamon). Missouri has.

Mr. GALE (Knox). You mean where they have them or where they are permitted to have them?

Mr. HULL (Cook). Where they have them; and can the gentleman tell me whether they are uniform or graduated taxes, and if they are graduated taxes, what is the extent of the graduation?

Mr. GALE (Knox). I don't know of any others.

Mr. HULL (Cook). I confess I am very much up in the air on this whole subject, and I would like to find some definite principles of taxation upon which the proposals could be based. I have been unable to find any such definite principles, and therefore, I am trying to find something in experience to guide me in my opinion.

I am quite unprepared to vote on these questions. I confess, Mr. President, that my principal confusion is contributed to by the fact that we have this subject assigned to a committee which was supposed to give its very careful consideration to that matter, but that committee reported out an article on the subject of revenue that we in Committee of the Whole decided on, and now the whole subject is back here again for consideration, without reference to the conclusions of that committee.

The ordinary purpose of a committee in a great legislative body is to thresh out and recommend. The members of that legislative body who are not members of the committee must necessarily be guided to a considerable extent by the judgment of the committee, who have given the subject careful consideration; and yet I find here now we have that whole report disregarded, and we are thrown, some of us, who are not students of that subject, into a certain mental confusion, from which I personally find myself unable to come to a definite conclusion.

I am reluctant to vote on these measures. I don't know where I am. The presumptions ordinarily would favor the report of the committee, and after the presumptions that come from careful consideration of a committee, the presumptions would favor the opinions of the chairman of that committee, but the chairman has come out here with proposals directly in conflict with the original conclusions, and those presumptions are more or less now in conflict, and I don't know where to go. I want enlightenment, that is the position I am in. I want enlightenment, and I don't know how to vote on these subjects.

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). In justice to the Revenue Committee, I must say this: The Revenue Committee presented here a report on which a number of the members of the Revenue Committee agreed and a number did not. That report, as presented, was modified and carried in Committee of the Whole, and referred to the Committee on Phraseology and Style. Anybody who chooses to read the parallel columns on pages 58, 59 and 60, will see how tremendously the report of the Revenue Committee was changed.

In view of the situation which has obtained here since this reconvening, it has been, and I think you will agree with me on that, impossible to have the consideration of the committee on this.

When I offered this substitute proposal here, I did not offer it as chairman of the Revenue Committee, because I had no right to do so, or in any way to bind any member of the committee or intimate to this Convention that it was coming from any other member of the committee. I offered it for this reason: I did not intend to offer anything, but a member of the Revenue Committee, the delegate from McLean (Kerrick) insisted that it was not fair that something should not be offered here. I therefore offered this proposal, with two sentences in it, the first two sentences, on which I knew, or thought I knew, that every member of the Convention could agree; and I offered the third one in order to bring sharply to the attention of this Convention the difference between a graduated and progressive income tax and a uniform income tax, and to give them the chance to vote on that; and I offered it in the skeleton form for two reasons; first, Mr. President, because I have come to the conclusion myself that the legislature

should be left free in matters of taxation and that there should be no restrictions upon them——

Mr. RINAKER (Macoupin). None of any kind?

Mr. GALE (Knox). None of any kind. I think the New York and the Iowa constitutions are the best there are on matters of revenue; but I did feel that if we were definitely going to refer to an income tax in the revenue article, then we should put a limit and either make it a uniform tax with certain exemptions or a graduated and progressive tax with certain exemptions, or we should leave the legislature the right to levy either kind of a tax, with certain exemptions, as the proposal of the delegate from Kane (Brandon) would now do; and I thought, in putting this up to the Convention in this way that I was fair to the members of the Revenue Committee who disagreed with me, and I guess that is every one of them, because it gives them a chance to offer here each single proposition in which they are interested and see if the Convention is willing to write that sentence into the revenue article.

I think that it is evident that the Revenue Committee cannot agree upon an article which they can unanimously recommend to this Convention, and, Mr. President, my course in this matter may have been wrong, but I did not see any other way fairly to present the proposition, so that each member of the Revenue Committee, or of the Convention aside from the Revenue Committee, could have a chance to offer any idea he had on this thing in one sentence, which could be voted up or down.

Now, speaking of this income tax, the experience in the United States upon the State income taxes is very meagre. It has not been running very long. We do know that up here in Wisconsin, with their graduated and progressive tax, with no limit, I think, that they have gone pretty far, in view of the fact that there is a federal tax. We do know that when they have taken that income tax and have permitted therefrom a deduction of the taxes levied upon property, that they have cut down the possible revenue from income taxes to such an extent that where the tax is used in that way it amounts to nothing; and we do know that in the state of New York their three per cent tax has, as Delegate Wilson (Cook) informed you yesterday, yielded them a very large amount of money, and it would indicate that our legislature could use an income tax in lieu of all other taxes in this State, except possibly the tax upon real estate. And, Mr. President, it is not our fault, or it is not my fault, that that is about all the information you can get out of the experience of those other states.

Mr. KERRICK (McLean). Mr. President.

THE PRESIDENT. The delegate from McLean, Mr. Kerrick.

Mr. KERRICK (McLean). I would like to ask the delegate a question or two suggested in my mind by the questions propounded by the delegate from Cook (Hull).

Mr. GALE (Knox). Very well, sir.

Mr. KERRICK (McLean). Is there at present in New York State any income tax upon intangible property?

Mr. GALE (Knox). I have forgotten.

Mr. KERRICK (McLean). Well, maybe this will refresh your recollection. Isn't it true that the only tax on income from intangible property that New York has had was one that was limited in its lifetime to three years?

Mr. GALE (Knox). That was true?

Mr. KERRICK (McLean). Yes.

Mr. GALE (Knox). Oh, I don't know. I think it is true, but I don't know. I am not sure that the New York legislature did not make such change in that after that first law.

Mr. KERRICK (McLean). If you will permit me to answer my own question, I think you will find out my investigation has been such that my information is correct. They had an income tax—the legislature was induced or was able to provide for an income tax, a tax on income derived from intangible property in New York, but the best they could get was that the law should cease to operate at the end of three years.

Mr. GALE (Knox). And that has not been changed?

Mr. KERRICK (McLean). And I know that at the end of three years, when that law ceased to operate, the revenue of New York City fell off \$4,000,000, notwithstanding the rate on real estate had been advanced so as to provide for \$288,000,000 of additional revenue in the state of New York. There is not now, and I am quite safe in saying that there is not now any tax upon income in New York derived from intangible property, and it was only by the most extreme effort that they could get it applied for three years, on account of the opposition of those who possessed most of the intangible property.

I would like to ask another question. I was pleased to hear the delegate from Knox (Gale) state so candidly and definitely as he did the facts concerning why we now have before us something that was not before the Committee of the Whole. We are really discussing something on first reading now, and not following up what transpired in the Committee of the Whole. We find that the Committee on Phraseology and Style, according to what the delegate from Knox (Gale) has said now and before, instead of simply pruning the result of the work of the Committee of the Whole here and trying to make it look better dressed up, have proceeded to emasculate it. I don't think that is any too severe a criticism of what they have done. It is not the same proposition at all, in many respects. You will find a radical departure all the way through it that is material; a departure in meaning not at all limited by a lack of ability on the part of those who first wrote the proposition to express themselves in good language, grammatically, punctuated properly and all that.

It is a new provision, and that forced the chairman of the Committee on Revenue to do something. I presume he chose the course that he thought was best. It was very honorable in him to freely admit that what we are now considering was not what the Committee of the Whole considered, and not what the Committee on Revenue, Taxation and Finance had presented to the Committee of the Whole, but I regret very much that the delegate from Knox (Gale), instead of proposing what he did propose, did not insist on the logical thing, that we go back to what the Committee of the Whole did, and report it just as the Committee of the Whole left it, without any trimming or pruning or emasculation, as the proposal that the Committee of the Whole had adopted, and ask us what we thought on that matter, as handed to us by the Committee of the Whole, on second reading.

Nothing else is a second reading. An entirely new proposition, because they killed the other one by their pruning and knifing, is not a second reading. This matter should be now discussed in the form in which it was adopted in the Committee of the Whole. There was a mistake made, unintentional. I will say, because of the candor of the delegate from Knox (Gale) in telling us that the measure that had come back to us was not the measure that was passed by the Committee of the Whole. I know that he did not intend to get us into trouble or deceive us. But it would have been better for all concerned, after the statement was made that we did not have before us what the Committee of the Whole had decided upon, that we be then given an opportunity to take up what the Committee of the Whole had decided on, even if the language was not in the finest and highest style of literary excellence. We are out of joint here, discussing something the Committee of the Whole never passed on, something which has been discredited, and very properly, by the chairman of the Committee on Revenue, which, it has been said here, ought to present to us something in a partially finished form. A point of order on what is here before us for consideration ought to be sustained. Of course, nobody would make that, but logically it would be sustained.

Now, to get back to where we ought to be. Everything ought to be expunged that has transpired here on this debate, and we should start back where we belong, word for word as the Committee of the Whole by their vote accepted and recommended. If we can't trust the Committee on Phraseology and Style to preserve the meaning, when it is pruning and trimming and cutting, of what was handed to it, we will have to take that job into our own hands. They say they did not change the meaning. If

they did not change the meaning, the matter of a change in a few words is not very important. Some men have got the idea that it is a wonderful thing to become concise. Some men boast of their ability to cut out words and change phrasing and still retain the meaning in all its purity, but that kind of a man usually, in laboring to be concise, becomes obscure. Not only did they become obscure in this case, but they become meaningless, if we are to test meaning by what we agreed we stood for here.

THE PRESIDENT. Are there any further remarks on the amendment offered by the delegate from Kane (Brandon)? If not, are you ready for the question?

Mr. BRANDON (Kane). Mr. President.

THE PRESIDENT. The delegate from Kane. Mr. Brandon.

Mr. BRANDON (Kane). The delegate from Cook, Mr. Sutherland, came to me a moment ago and stated that he requested an opportunity to present some facts, in answer to statements made by the gentleman from McLean, Mr. Kerrick, and he has gone to the Legislative Reference Bureau to get the facts, and asked me to request that he be given that opportunity. I do not like to ask the Convention to wait on him, but I presume that he thought the discussion would continue until he got back.

Mr. KERRICK (McLean). May I ask the gentleman a question?

Mr. BRANDON (Kane). Certainly.

Mr. KERRICK (McLean). Nothing would please me better. If you know, or if the delegate from Cook (Sutherland) knows of anything which I have misstated as to fact, I would like to be told of it now, and if I am mistaken, I would be very glad to retract it.

Mr. BRANDON (Kane). I see Mr. Sutherland is now here.

Mr. KERRICK (McLean). Is it charged that I have made a misstatement of fact?

Mr. SUTHERLAND (Cook). Oh, no.

Mr. BRANDON (Kane). No, no. I merely stated that it is desirable that the gentleman from Cook (Sutherland) have an opportunity to give the light that was sought by Senator Hull on this question.

Mr. SUTHERLAND (Cook). I was interested in the suggestion by the delegate from McLean (Kerrick) that there had been a period limit to the operation of the New York income tax. If I may have the attention of the delegate from McLean (Kerrick) for a moment, I want to get clearly his thought. Senator Kerrick, I want to be sure on this point. Were you under the impression that there was a time limit on the operation of a certain phase of the New York income tax?

Mr. KERRICK (McLean). I was under the impression, and I have found my information in a volume reporting the proceedings of the National Tax Association; and also the other proposition, that the revenue fell off \$4,000,000 in New York City alone when that law ceased to operate, that is, the income tax on intangible property; I got that from the comptroller of New York City.

Mr. SUTHERLAND (Cook). Well, I am not advised as to that, Mr. President, but I have before me a copy of the New York income tax law of 1920, with the amendments of 1921.

Mr. KERRICK (McLean). Now, right there, I asked Mr. Gale (Knox) —I am not informed—I asked Mr. Gale (Knox) if he was informed as to whether there was now an income tax in operation.

Mr. SUTHERLAND (Cook). Yes, there is.

Mr. KERRICK (McLean). Well, I have not said there was not. I have said that they obtained such an act through the legislature, and it was limited to three years' operation, and when its operation ceased, there was none for a while. I have not said that there was not one in operation.

Mr. SUTHERLAND (Cook). That is what I wanted to find out. I was interested in your suggestion, and I wanted to get what data I could.

Mr. KERRICK (McLean). I did say that during the interim when it did not operate, \$4,000,000 was lost to the revenue of New York City alone, and that year the valuation on real estate was raised \$288,000,000. It is practically that.

Mr. SUTHERLAND (Cook). Well, simply for the information of the Convention, there is one now operative.

Mr. KERRICK (McLean). I never disputed that.

Mr. SUTHERLAND (Cook). I was not aware of a hiatus or of any hiatus in the operation of income tax laws in New York since the first one was inaugurated, but I have in my hands a copy of the Act of 1920.

Mr. KERRICK (McLean). That was subsequent to the time I speak of.

Mr. SUTHERLAND (Cook). Yes. That provides for an income tax of one per cent on the amount of net incomes not exceeding \$10,000; two per cent on the amount of net incomes in excess of \$10,000 but not in excess of \$50,000; and three per cent on the amount of net incomes in excess of \$50,000; and the taxes imposed by this article are in addition to all other taxes imposed by law, except that money on hand or on deposit, with or without interest, bonds, notes and choses in action and shares of stock in corporations other than banks and banking associations, owned by any individual, or constituting a part of a trust or estate subject to the income tax imposed by this article, shall not, after July 31, 1919, be included in the valuation of the personal property included in the assessment rolls of the several tax districts, villages, school districts and special tax districts of the State, and those provisions are not changed by the amendments of 1921, which are purely administrative, as to determination of net income.

Mr. GALE (Knox). Mr. President.

THE PRESIDENT. The delegate from Knox, Mr. Gale.

Mr. GALE (Knox). In view of the situation here, I move that we do recess until 10 o'clock next Tuesday morning.

THE PRESIDENT. The delegate from Knox (Gale) moves that the Convention do now adjourn until 10 o'clock on Tuesday morning.

Before putting that motion, the Chair would state that he is very much impressed with the suggestion made by the delegate from Schuyler, Mr. Jarman, concerning the printing of the amendments to be offered to this revenue section. The Chair would suggest that delegates having amendments to offer to the revenue section present those amendments to the Secretary. The Secretary will turn all of the amendments which will be given to him over to the printer, so that the delegates may have the amendments on reconvening next Tuesday morning. I think that that will probably facilitate the hearing and consideration of this revenue section. I trust that the delegates will do that.

Mr. RINAKER (Macoupin). Mr. President.

THE PRESIDENT. The delegate from Macoupin, Mr. Rinaker.

Mr. RINAKER (Macoupin). May I make the suggestion also that the effect of the consideration of these four provisions—sections—under the rule as presented is a puzzling proposition to me, and that in the meantime there ought to be some plan devised by which the period when they shall pass beyond the possibility of amendment shall be determined in such a way that we won't be foreclosed or precluded from presenting different ideas. The rule is unfair, or at least confuses the application of parliamentary principles to it. I don't know where we are.

THE PRESIDENT. The question is upon the motion to adjourn.

Mr. ELTING (McDonough). Mr. President.

THE PRESIDENT. The delegate from McDonough.

Mr. ELTING (McDonough). I would like to offer a substitute to that motion. I move you that the delegates from Cook, including Delegate Gale, be appointed a Conference Committee to decide upon a proposal for a policy of revenue and taxation, to submit to the Convention, and that the Convention do now adjourn, at the call of the President, to such time as the committee is ready to make unanimous report.

I move the adoption of the substitute.

THE PRESIDENT. The Chair declares the motion out of order. The question is upon the motion to adjourn.

Motion carried; whereupon the Constitutional Convention adjourned to Tuesday, February 14, 1922, at 10:00 o'clock a. m.

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